Local Government Council

Wednesday, March 8, 2006
1:00 P.M.
404 House Office Building

Allan G. Bense
Speaker

Ken Sorensen
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Local Government Council

Start Date and Time:	Wednesday, March 08, 2006 01:00 pm
End Date and Time:	Wednesday, March 08, 2006 03:00 pm
Location:	404 HOB
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 143 Retirement by Brummer
HB 405 CS Deferred Compensation Programs by Mealor
HB 573 Disabled Veterans by Bilirakis
HB 683 Developments of Regional Impact by Traviesa
HB 703 Municipal Annexation by Justice
HB 757 Polk County by Stargel
HB 823 Local Government Infrastructure Surtax by Altman
HB 847 City of Jacksonville, Duval County by Mahon
HB 891 Local Occupational License Taxes by Goldstein
HB 921 Pinellas County Water and Navigation Control Authority by Berfield
HB 923 Troup-Indiantown Water Control District, Martin County by Machek
HB 925 Pinellas County Tourist Development Council, Pinellas County by Anderson
HB 927 Mosquito Control District of Pinellas County by Berfield
HB 929 Pinellas County by Berfield
HB 935 Temporary Buildings by Benson
HB 939 Local Government by Rivera
HB 1021 Lealman Special Fire Control District, Pinellas County by Farkas

NOTICE FINALIZED on 03/06/2006 15:05 by ADEYEMO.MARTHA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 143 Retirement
SPONSOR(S): Brummer
TIED BILLS: None **IDEN./SIM. BILLS:** SB 92

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	7 Y, 0 N	Williamson	Everhart
2) Local Government Council		Nelson	Hamby
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

This bill provides that a Special Risk Class member of the Florida Retirement System (FRS) who is a law enforcement officer, correctional officer, correctional probation officer, firefighter, emergency medical technician or paramedic is considered totally and permanently disabled if he or she has a job-related injury that causes physical or mental impairment, and is unable to perform the duties of his or her position, unless proven otherwise by the secretary of the Department of Management Services ("administrator"). Under current law, a member must be prevented from rendering useful and efficient service as an officer or employee to be considered disabled. Thus, the bill creates an easier standard for an injured employee to meet in order to receive a disability benefit, and shifts the burden of proof from the employee to the administrator.

The bill also relaxes post-retirement restrictions—which presently do not permit a disability retiree to receive disability benefits while gainfully employed—for the Special Risk Class members who qualify for in-line-of-duty disability retirement. Reemployment of a disabled officer, firefighter, emergency medical technician or paramedic is authorized:

- by an employer who does not participate in the FRS; or
- after one calendar month of retirement, by an FRS employer.

Subject to the above conditions, the disabled officer, firefighter, emergency medical technician or paramedic may be reemployed in any position other than the one he or she was employed at the time of disability retirement, and will continue to receive his or her disability retirement benefits.

The estimated first-year cost of the bill is $9,962,000, with increasing costs each year thereafter. The bill does not appropriate additional funding; therefore, costs will be absorbed within existing resources. The benefits provided by the bill are funded by increasing the FRS employer contribution rate for the Special Risk Class from 17.37 percent to 17.68 percent (+0.31 percent).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the employer contribution rates for the Special Risk Class of the Florida Retirement System.

Promote personal responsibility – The bill increases benefits to certain state and local employees who may be injured due to the intentional acts of another, without requiring the responsible party to pay the costs of the increased benefits.

Empower families – The bill provides for increased disability retirement benefits for certain state and local employees who are injured under certain conditions.

B. EFFECT OF PROPOSED CHANGES:

Background

Officer Malcolm Thompson

In 1997, Officer Malcolm Thompson of Kissimmee was shot several times in the head, neck and stomach by a suspect wanted for armed robbery and carjacking. Despite his severe injuries, he shot and killed the suspect.[1]

Florida Retirement System

The Florida Retirement System (FRS) is administered by the Department of Management Services through its Division of Retirement. The FRS provides retirement and disability benefits for state and county employees and for employees of those cities and special districts that choose to participate in the FRS. Currently, employer contribution rates to the FRS Trust Fund are 6.67 percent for the Regular Class and 17.37 percent for the Special Risk Class[2] (the members of which include, but are not limited to, police officers, correctional officers, correctional probation officers, firefighters, emergency medical technicians and paramedics).

Limited disability benefits are payable to FRS-covered employees for illnesses or injuries causing an individual to be totally and permanently disabled. For injuries not occurring in the line of duty, an employee must have five to 10 years of creditable service before the disability to be eligible for this benefit. However, if the injury occurs in the line of duty, the employee qualifies for an increased disability benefit regardless of his or her years of service.

Florida law describes "total and permanent disability" for all FRS members as being "if, in the opinion of the administrator,[3] he or she is prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as an officer or employee."[4] The member must provide proof of disability, including certification by two licensed physicians that the member's disability is total and permanent (i.e., that the member is unable to engage in any gainful employment). In order to receive the higher in-line-of-duty disability benefits, the member also must show by competent evidence that the disability occurred in the line of duty (unless a legal presumption applies such as is provided under s. 112.18, F.S.). The general disability benefit is 42 percent of the employee's average

[1] "Wounded Cop Kills Robbery Suspect," *Miami Herald*, 4 June 1997, p. 2B.
[2] Section 121.71(3), F.S.
[3] Section 121.021(5), F.S., defines the term "administrator" for purposes of ch. 121, F.S., to mean the secretary of the Department of Management Services.
[4] Section 121.0911(4)(b), F.S.

final compensation (AFC). The in-line-of-duty benefit for special risk employees is at least 65 percent of the AFC.[5]

Currently, the law does not allow a FRS disability retiree to receive disability benefits while being gainfully employed. The disability retiree will void his or her disability benefits by becoming employed by any employer—at any time.

175/185 Plans

Chapters 175 and 185, F.S., respectively, refer to local government firefighters' and police officers' retirement plans.[6] These plans are not part of the Florida Retirement System,[7] and they do not cover correctional officers, correctional probation officers, emergency medical technicians or paramedics. The plans only are available to employees of participating municipalities and special fire control districts, and are funded by annual distributions of state premium tax collections on property and casualty insurance policies written within the city/district limits or boundaries.[8] The day-to-day operational control of the individual trust funds is vested in the respective boards of trustees created at the local level, subject to administrative oversight by the Division of Retirement of the Department of Management Services.

Chapter 175 and 185 provide that disability retirement is available for fire fighters and police officers under the following circumstances:

An employee who becomes totally and permanently disabled in the line of duty, regardless of length of service, may receive disability retirement if the employee becomes totally and permanently disabled. An employee is considered totally disabled if, *in the opinion of the board of trustees*, he or she is wholly prevented from rendering useful and efficient service as a firefighter or a police officer; and will be considered permanently disabled if, *in the opinion of the board of trustees*, he or she is likely to remain so disabled continuously and permanently.

No such employee is permitted to retire until he or she is examined by a duly qualified physician or surgeon, *to be selected by the board of trustees for that purpose*, and found to be disabled. These employees may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

If the board of trustees finds that a firefighter who is receiving a disability retirement income is no longer disabled, the disability retirement income is discontinued. "Recovery from disability" means the ability of the employee to render useful and efficient service as a firefighter or police officer. The benefit payable to a firefighter who retires from service due to total and permanent disability in the line of duty, is the accrued retirement benefit, but not be less than 42 percent of his or her average monthly salary at the time of disability.

The burden of proof remains with the administrator of the 175/185 plans. An individual may be found to be totally and permanently disabled when it is determined that they are unable to provide useful and efficient service as a firefighter or police officer, and there are no specific provisions with regard to reemployment within chs. 175 and 185. Also, the 175/185 plans, as previously mentioned, only cover firefighters and police officers. It is noted that the benefits provided to employees under the FRS and the 175/185 plans are distinct in complex ways. For example, FRS disability retirement recipients receive not less than 65 percent of their average final compensation. A chart detailing these differences is available at http://www.frs.state.fl.us/frs/mpf/.

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[5] Section 121.091(4), F.S.

[6] As of September 30, 2005, 225 cities or fire control districts had either 175 or 185 plans.

[7] All state and county employees are compulsory members of the FRS, and as of June 30, 2005, about 151 Florida cities were covering firefighters, police and/or general employees under the FRS.

[8] Further funding for these plans is provided by employee contributions, other revenue sources and employer contributions.

Effect of Bill

HB 143 establishes a different disability determination criteria for certain FRS Special Risk Class members. The bill provides that a member of the Special Risk Class who is employed as a law enforcement officer, correctional officer, correctional probation officer, firefighter, emergency medical technician or paramedic is considered totally and permanently disabled in the line of duty if he or she is prevented, by reason of a medically determinable physical or mental impairment caused by a job-related injury, from performing useful and efficient service in his or her position. The employee will receive the higher in-line-of-duty disability benefit unless the secretary of the Department of Management Services ("administrator") can provide "competent medical evidence to the contrary." Thus, the burden of proof is shifted from the employee to the administrator, and an easier standard is created for the injured employee to meet in order to receive the disability benefit.

The bill also relaxes post-retirement restrictions for the Special Risk Class members who qualify for in-line-of-duty disability retirement. Reemployment of a disabled officer, firefighter, emergency medical technician or paramedic is authorized:

- by an employer who does not participate in FRS; or
- after one calendar month of retirement, by an FRS employer.

Subject to the above conditions, the disabled officer, firefighter, emergency medical technician or paramedic may be reemployed in *any position* other than the one he or she was employed at the time of disability retirement. This presumably would allow an employee to return to work in a different position within the same job classification. Thus, a "law enforcement officer" could return to work with the same employer as a "law enforcement officer" as long as that officer was assigned to a different position. The employee would continue to receive his or her in-line-of-duty disability retirement benefits while receiving a salary from subsequent employment. Minimum threshold disability benefits are not considered taxable income,[9] so an affected individual would receive a "tax-free" disability benefit of at least 65% of his or her average final compensation, in addition to any workers' compensation benefit and/or social security benefit he or she would otherwise be entitled to, as well as any future salary he or she could earn while working in any position other than the one filled at the time of injury.

The bill increases the FRS contribution rates for the Special Risk Class from 17.37 percent to 17.68 percent (+0.31 percent) to fund the benefit improvement. As the affected special risk group is not treated as a separate subclass of the Special Risk Class, the higher contributions would be required for all special risk members, although the benefit improvement would only be available to a limited group.[10]

C. SECTION DIRECTORY:

Section 1: Provides a short title.

Section 2: Provides a public purpose for the bill, and a declaration of important state interest.

Section 3: Amends s. 121.091, F.S., relating to in-line-of-duty disability benefits and reemployment after retirement.

Section 4: Increases the employer contribution rates for the Special Risk Class by 0.31 percent.

Section 5: Provides a July 1, 2006, effective date.

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[9] Only that portion of the benefit that falls within the minimum benefit level—65 percent of AFC, in this case—is tax free; any person who receives a higher benefit based upon years of service must pay income taxes on the portion of the benefit received above the minimum benefit level.

[10] The bill currently excludes the following members of the Special Risk Class: correctional or forensic health care employees in specified positions with the Department of Corrections or the Department of Children and Families who spend 75 percent of their time performing duties involving contact with inmates or patients; youth custody officers employed by the Department of Juvenile Justice; and, forensic workers employed by a law enforcement agency or medical examiner's office (included in the class by ch. 2005-167, L.O.F., effective October 1, 2005). The bill does not cover members of the Special Risk Administrative Support Class.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not create, modify or eliminate a state revenue source.

2. Expenditures:

Year 1	Year 2	Year 3[11]
FY 06/07	FY 07/08	FY 08/09
$2,786,000	$2,897,000	$3,012,880

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not create, modify or eliminate a local revenue source.

2. Expenditures:

Year 1	Year 2	Year 3[12]
FY 06/07	FY 07/08	FY 08/09
$7,176,000	$7,463,000	$7,762,000

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not regulate the conduct of persons in the private sector.

D. FISCAL COMMENTS:

The bill increases the FRS employer contribution rates for the Special Risk Class from 17.37 percent to 17.68 percent (+0.31 percent). This rate increase translates to a total first-year cost of $9,962,000, with increasing costs each year thereafter. Costs are assumed to increase an additional four percent each year. The bill does not appropriate additional funding; therefore, costs will be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of s. 18 (a), Art. VII, of the State Constitution, applies because the bill increases the in-line-of-duty disability for certain officers, firefighters, emergency medical technicians and paramedics, resulting in local government FRS participants being required to expend funds. However, the following exception applies:

- the bill contains a statement of important state interest; and
- similarly situated persons are required to comply.

2. Other:

Section 14, Art. X of the State Constitution

[11] The costs shown are based upon the 2004 FRS Valuation and will be revised when the 2005 Valuation is completed. Department of Management Services 2006 Substantive Bill Analysis, October 11, 2005.

[12] *Id.*

Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the state of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

> SECTION 14. State retirement systems benefit changes.—A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Part VII of ch. 112, Florida Statutes

Section 14, Art. X, of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the state of Florida. The key provision of this act states the legislative intent to "prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers."

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

At the Governmental Operations Committee meeting on October 19, 2005, two issues were raised and drafting recommendations were made:

1) The bill creates disparate treatment of members within the Special Risk Class. As a result, the passage of this bill could jeopardize the qualified status of the entire retirement plan. A private letter ruling by the Internal Revenue Service (IRS) is suggested; however, the IRS cannot provide a ruling until passage of the bill. It is suggested that language be added to the bill that makes the benefits provided contingent upon a private letter ruling by the IRS.

2) In addition, the bill provides that a retired law enforcement officer, correctional officer, correctional probation officer, firefighter, emergency medical technician or paramedic may not be reemployed in the position he or she "held" at the time of the disabling illness or injury. According to the Department of Management Services, it is unclear whether a category two officer could be rehired as a category one officer or if both categories would fall under the phrase "position held." As such, it is recommended that the phrase be clarified.

Other Comments

Department of Management Services

According to the FRS consulting actuaries, changing the standard for total and permanent disability from inability to perform any form of employment to inability to perform one's current job, or a limited range of jobs, and shifting the burden of proof from the member to the plan administrator, would increase disability retirements and retirement costs. The higher costs would arise from members becoming eligible for in-line-of-duty disability benefits who would not be eligible for such benefits absent this proposal.[13]

[13] Department of Management Services Substantive Bill Analysis, February 28, 2005.

The Department of Management Services has noted that disability coverage under the FRS is intended to provide income for members who are so physically or mentally impaired from injury or illness suffered while actively employed in a covered position that they can no longer be expected to earn income by gainful employment. If later employed, they are considered "recovered," and the disability benefit stops. This "total and permanent" disability eligibility standard—currently applied equitably across all plans and membership classes of the FRS—has not changed since the plan's inception in December 1970. By making it significantly easier for certain members of one class to both obtain and keep disability benefits, the bill has the potential to encourage fraud and abuse, the costs for which would ultimately be borne by the taxpayers of Florida. Effective elimination of the reemployment prohibition would exacerbate these problems.

By modifying qualification requirements to shift the burden of proof from the affected member to the administrator, the bill makes it far less likely that a disability application could be denied. The administrator would have to provide competent evidence to show that the applicant could indeed perform the duties of his/her current job. This would be exceedingly difficult, if not impossible. It is recommended that the Legislature consider amending the bill to reinstate the present proof requirement by eliminating the shift of burden of proof from the member to the administrator.

The Department of Management Services also has noted that, under current law, the affected special risk group is not treated as a separate category of the Special Risk Class. Therefore, under the existing structure of the FRS, all special risk employers would be required to pay increased rates as a result of this benefit improvement, while the liberalized disability standard would not be available to all special risk employees. As the bill does not cover all employee groups in the Special Risk Class, it effectively creates unequal subclasses within the Special Risk Class. Excluded groups could view this as discrimination, which could lead to dissension. Members of the Special Risk Class who are not included in the group proposed to be covered by the bill could argue that they should have been covered. The bill would set a precedent for other groups to seek equal treatment, whether they are Special Risk Class members not covered by HB 143 or members of other classes who are injured in the line of duty.[14]

The Florida League of Cities and the Florida Association of Counties

Both the Florida League of Cities and the Florida Association of Counties oppose this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[14] *Id.*

A bill to be entitled

An act relating to retirement; providing a short title; providing legislative intent; providing a statement of important state interest; amending s. 121.091, F.S.; revising provisions relating to benefits payable for total and permanent disability for certain Special Risk Class members of the Florida Retirement System who are injured in the line of duty; authorizing reemployment of a person who retired with in-line-of-duty disability benefits by employers not participating in a state-administered retirement system; authorizing reemployment of a person who retired with in-line-of-duty disability benefits by an employer participating in a state-administered retirement system after 1 calendar month; providing for contribution rate increases to fund benefits provided in s. 121.091, F.S., as amended; directing the Division of Statutory Revision to adjust contribution rates set forth in s. 121.71, F.S.; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Officer Malcolm Thompson Act."

Section 2. It is declared by the Legislature that firefighters, emergency medical technicians, paramedics, law enforcement officers, correctional officers, and correctional probation officers, as defined in this act, perform state and municipal functions; that it is their duty to protect life and

property at their own risk and peril; that it is their duty to continuously instruct school personnel, public officials, and private citizens about safety; and that their activities are vital to the public safety. Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of firefighters, emergency medical technicians, paramedics, law enforcement officers, correctional officers, and correctional probation officers, as defined in this act, and intends, in implementing the provisions of s. 14, Art. X of the State Constitution as they relate to municipal and special district pension trust fund systems and plans, that such retirement systems or plans be managed, administered, operated, and funded in such manner as to maximize the protection of pension trust funds. Pursuant to s. 18, Art. VII of the State Constitution, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

Section 3. Paragraph (b) of subsection (4) and subsection (9) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.--Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's

rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(4) DISABILITY RETIREMENT BENEFIT.--

(b) Total and permanent disability.--

1. Except as provided in subparagraph 2., a member shall be considered totally and permanently disabled if, in the opinion of the administrator, he or she is prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as an officer or employee.

2. A member of the Special Risk Class who is a law enforcement officer, firefighter, correctional officer, emergency medical technician, paramedic as described in s. 121.021(15)(c), or community-based correctional probation officer as described in s. 121.021(15)(d)1., shall be considered totally and permanently disabled in the line of duty if he or she is prevented, by reason of a medically determinable physical or mental impairment caused by a job-related injury, from performing useful and efficient service in the position held, unless the administrator can provide competent medical evidence to the contrary.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

(a)1. Except as provided in subparagraph 2., any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that does not participate in a state-administered

retirement system and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable to that person.

2. Any member of the Special Risk Class who retired under the disability retirement provisions of subparagraph (4)(b)2. may be reemployed by any employer not participating in a state-administered retirement system in any position other than the position in which he or she was employed at the time of the disabling illness or injury and may receive compensation from that employment without limiting or restricting in any way the disability benefits payable to that person under the Florida Retirement System.

(b)1.a. Except as provided in sub-subparagraph b., any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his or her employer without any limitations, except that a person may not receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

b. Any member of the Special Risk Class who retired under the disability retirement provisions of subparagraph (4)(b)2. may be reemployed by any employer participating in a state-

administered retirement system after having been retired for 1 calendar month, in accordance with s. 121.021(39). After 1 calendar month of retirement, any such retired member may be reemployed in any position other than the one in which he or she was employed at the time of disability retirement and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable to that person under this chapter. Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits.

2. Any person to whom the limitation in subparagraph 1. applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System before completion of the 12-month limitation period shall give timely notice of this fact in writing to the employer and to the division and shall have his or her retirement benefits suspended for the balance of the 12-month limitation period. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and

retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

3. A district school board may reemploy a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). A district school board may reemploy a retired member as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any other retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, education paraprofessionals, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph 7.

4. A community college board of trustees may reemploy a retired member as an adjunct instructor, that is, an instructor who is noncontractual and part-time, or as a participant in a phased retirement program within the Florida Community College System, after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the

retirement contribution required in subparagraph 7. A retired member may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

5. The State University System may reemploy a retired member as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retired member has been retired for 1 calendar month,

in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retirement ~~retired~~ contribution required in subparagraph 7., as appropriate. A retired member may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received

in violation of the 780-hour reemployment limitation.

6. The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a retired member as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by subparagraph 7. Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered

retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

7. The employment by an employer of any retiree or DROP participant of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of the retiree or DROP participant. Prior to July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who has been retired under any state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees with renewed membership or subsection (13) with respect to DROP participants.

8. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office eligible for the Elected Officers' Class on or after July 1, 1990, shall be enrolled in the Florida Retirement System as provided in s. 121.053(1)(b) or, if holding an elective public office that does not qualify for the Elected

Officers' Class on or after July 1, 1991, shall be enrolled in the Florida Retirement System as provided in s. 121.122, and shall continue to receive retirement benefits as well as compensation for the elected officer's service for as long as he or she remains in elective office. However, any retired member who served in an elective office prior to July 1, 1990, suspended his or her retirement benefit, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.

9. Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in nonelected covered employment may elect to retire while continuing employment in the elective public office, provided that he or she shall be required to terminate his or her nonelected covered employment. Any person who exercises this election shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection. No person who seeks to exercise the provisions of this subparagraph, as the same existed prior to May 3, 1984, shall be deemed to be retired under those provisions, unless such person is eligible to retire under the provisions of this subparagraph, as amended by chapter 84-11, Laws of Florida.

10. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which

the person is compensated.

11. Except as provided in subparagraph 12., an employing agency may reemploy a retired member as a firefighter or paramedic after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The employing agency reemploying such firefighter or paramedic is subject to the retirement ~~retired~~ contribution required in subparagraph 7. ~~8.~~ Reemployment of a retired firefighter or paramedic is limited to no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the Retirement System Trust Fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid

to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

12. An employing agency may reemploy a retired member who retired under the disability provisions of subparagraph (4)(b)2. as a law enforcement officer, firefighter, correctional officer, emergency medical technician, paramedic, or a community-based correctional probation officer after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Such retired member may not be reemployed with any employer in the position he or she held at the time of the disabling illness or injury. Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The employing agency reemploying such a member is subject to the retirement contribution required in subparagraph 7.

Section 4. Effective July 1, 2006, in order to fund the benefit improvements provided in s. 121.091, Florida Statutes, as amended by this act, the contribution rate that applies to the Special Risk Class of the defined benefit program of the Florida Retirement System shall be increased by 0.31 percentage points. This increase shall be in addition to all other changes to such contribution rates which may be enacted into law to take effect on that date. The Division of Statutory Revision is directed to adjust accordingly the contribution rates set forth in s. 121.71, Florida Statutes.

Section 5. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 405 CS Deferred Compensation Programs
SPONSOR(S): Mealor
TIED BILLS: **IDEN./SIM. BILLS:** SB 1024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	6 Y, 0 N, w/CS	Mitchell	Williamson
2) Local Government Council		Nelson	Hamby
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

HB 405 removes restrictions in statute that limit the deferred compensation plan established by the Chief Financial Officer to "state employees," and authorizes participation in this program by "employees of governmental entities." The bill creates two new options for counties, municipalities, other political subdivisions, or constitutional officers in addition to adopting and establishing their own deferred compensation programs: (1) adopting the deferred compensation plan or plans of the state; or (2) adopting and establishing a deferred compensation program, and adopting the state's deferred compensation plan or plans. The bill also changes the current rulemaking authority of the Chief Financial Officer to include any rules necessary to administer and implement the act with respect to deferred compensation plans for "employees of governmental entities that have adopted the state's plan."

Although the program is funded by charges to participants, the bill may have a fiscal impact on state government which has not been assessed.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to affect any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 112.215, F.S., the Government Employees' Deferred Compensation Act,[1] allows the state or any state agency, county, municipality, other political subdivision, or constitutional county officer to permit an employee to defer all or any portion of that employee's otherwise payable compensation.[2] Deferred compensation can be placed in a savings account or be used to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other approved investment products.[3] Federal taxation is deferred up to an annually indexed amount for placement in a fund or funds of a prequalified investment provider and account earnings are similarly sheltered from federal taxation until a distribution occurs.[4]

The State of Florida's Chief Financial Officer is charged with the responsibility for establishing the deferred compensation plans for state employees and directs the program through the Department of Financial Services (DFS), which acts as the administering agency. The DFS:

- competitively selects several investment providers along with a third-party financial administrator;
- seeks the advice of the State Board of Administration, the investment entity for the State of Florida and Florida Retirement System, before approving investment vehicles or products; and
- periodically reviews provider company funds and may terminate them if their performance falls below a designated level.[5]

Five of the six participating firms in the deferred compensation program for state employees are insurance companies; the sixth is a mutual fund.[6] The participating employee bears all of the investment risk and is responsible for the payment of associated fees and costs charged by the provider.[7] The state's fees and associated participant costs, or total investment management expenses, generally fall within a range between institutional—the lowest, and retail—the highest.[8] The state plan operates under a long-term contract that was last amended in 1997.[9]

Counties, municipalities and other political subdivisions may adopt and establish their own deferred compensation program.[10] Constitutional county officers also may establish their own deferred compensation program by contractual agreement or through similar approval documentation.[11] The county, municipality, other political subdivision, or constitutional officers are responsible for the programs which they establish.

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[1] Section 112.215(1), F.S.
[2] Section 112.215(3), F.S.
[3] *Id.*
[4] Fla. H.R. Govtl. Ops. Comm., HB 787 (2005) Staff Analysis 2 (March 30, 2005) (on file with committee.).
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] Section 112.215(5), F.S.
[11] *Id.*

Under current Florida law, counties, municipalities, other political subdivisions, or constitutional officers may not participate in the deferred compensation program sponsored by the DFS. According to the 2001 Survey of 457 Plans by the National Association of Government Defined Contribution Administrators, 47 percent of the 36 responding state plans allow local governments to choose to participate in the state plan.[12] Staff of the Department of Financial Services has indicated that Internal Revenue Service regulations permit 457 plans to include multiple jurisdictions.[13]

Proposed Changes

The bill amends s. 20.121, F.S., to remove a restriction which provides that the Government Employees Deferred Compensation Plan is for "state employees."

The bill also amends s.112.215, F. S., to change the definition of "employee" to "any person, whether appointed, elected, or under contract, providing services for a governmental entity." The bill groups the organizations and officers previously included in the definition of "employee" into a new definition of "governmental entity" which means "the state; any state agency or county or other political subdivision of the state; any municipality; any state university board of trustees; or any constitutional county officer under s. 1(d), Article VIII of the State Constitution."

The bill permits participation in the deferred compensation plan or plans established by the Chief Financial Officer, with the approval of the State Board of Administration, by "employees of governmental entities" rather than only "state employees."

Based on these changes, the bill creates two new options for counties, municipalities, other political subdivisions, or constitutional officers in addition to adopting and establishing their own deferred compensation program: (1) allowing them to adopt the deferred compensation plan or plans of the state; or (2) allowing them to adopt and establish a deferred compensation program and adopt the state's deferred compensation plan or plans.

The bill changes the rulemaking authority of the Chief Financial Officer to include the "deferred compensation plans for employees of governmental entities that have adopted the state's plan" rather than only the "deferred compensation plans for state employees."

C. SECTION DIRECTORY:

Section 1: Amends paragraph (d) of subsection (2) of s. 20.121, F. S., to make conforming changes.

Section 2: Amends subsection (2), paragraphs (a) and (d) of subsection (4), and subsections (5), (6), and (12) of s. 112.215, F. S., to revise definitions and to permit expanded participation in the deferred compensation program of the state.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. This bill does not appear to create, modify, amend or eliminate a state revenue source.

2. Expenditures:

[12] Fla. H.R. Govtl. Ops. Comm., *supra* note 4.
[13] *Id.*

The bill may have a fiscal impact on state government (associated with fiduciary duties and additional administrative burdens) which has not been assessed.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not appear to create, modify, amend or eliminate a local revenue source.

2. Expenditures:

None. This bill does not appear to create, modify, amend or eliminate a local expenditure because participants would pay all fees.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that local governments add the state plan as another option for their employees or drop their vendors and transition to offering solely the state plan, current providers of deferred compensation services to those local governments may lose business, while the providers under the state plan may gain business. However, there is some degree of overlap between vendors in the state and various local government plans.

To the extent that the state plan's fees are lower than the local governments' plans, participants would experience savings.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Currently, the Chief Financial Officer may adopt any rule "necessary to administer and implement this act with respect to deferred compensation plans for state employees." This bill changes that authority to include the "deferred compensation plans for employees of governmental entities that have adopted the state's plan."

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 25, 2006, the Governmental Operations Committee adopted an amendment which makes references to "the plan or plans of deferred compensation for employees of governmental entities" consistent

with the subsection that authorizes the plan or plans.[14] The bill was reported favorably with committee substitute.

[14] Although neutral on the bill, this issue was raised by the Florida League of Cities. Telephone Conversation with the Deputy General Counsel of the Florida League of Cities (Jan. 12, 2006).

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 405

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Local Government

Representative Mealor offered the following:

Amendment (with title amendment)

Remove line(s) 46-54 and insert:

(4) (a) The Chief Financial Officer, ~~with the approval of the State Board of administration,~~ shall establish such plan or plans of deferred compensation for ~~state~~ employees of governmental entities, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation by and on behalf of governmental entities ~~the state~~ and their ~~its agencies and~~ employees. The State Board of Administration shall approve the initial establishment of any deferred compensation plan for state employees administered by the Chief Financial Officer, including all investment products or vehicles. Any county, municipality, or other political subdivision of the state shall approve the establishment of any plan and investment vehicles or products for their employees. Once a plan for state employees is established, the State Board of Administration shall assist the

Chief Financial Officer by reviewing and commenting on changes to the plan and investment products offered to state employees, but the Chief Financial Officer, or his designee, shall solely retain the responsibility for making decisions with respect to all plan matters. At the request of the Chief Financial Officer, the State Board of Administration shall supply such assistance, consistent with State Board of Administration rule and a mutually executed agreement between the parties which sets out services and fees.

========== T I T L E A M E N D M E N T ==========

Remove line 10 and insert:

"governmental entity"; providing for duties of the State Board of Administration; authorizing governmental entities,

AMENDMENT TO HB 405 BY REPRESENTATIVE MEALOR

On page 2, lines 14-22, strike all of said lines and insert:

(4) (a) The Chief Financial Officer~~, with the approval of the State Board of administration,~~ shall establish such plan or plans of deferred compensation for ~~state~~ employees of governmental entities, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation by and on behalf of governmental entities ~~the state~~ and their ~~its agencies and~~ employees. The State Board of Administration shall approve the initial establishment of any deferred compensation plan for state employees administered by the Chief Financial Officer, including all investment products or vehicles. Any county, municipality, or other political subdivision of the state shall approve the establishment of any plan and investment vehicles or products for their employees. Once a plan for state employees is established, the State Board of Administration shall assist the Chief Financial Officer by reviewing and commenting on changes to the plan and investment products offered to state employees, but the Chief Financial Officer, or his designee, shall solely retain the responsibility for making decisions with respect to all plan matters. At the request of the Chief Financial Officer, the State Board of Administration shall supply such assistance, consistent with State Board of Administration rule and a mutually executed agreement between the parties which sets out services and fees.

Amendment Summary

Under current law, the State Board of Administration (SBA) was responsible for approving the initial establishment of deferred compensation plans for state employees (i.e., mid 1980s). Current responsibilities are allocated:

- The Chief Financial Officer, through the Bureau of Deferred Compensation, is solely responsible for all aspects of the program's management, including monitoring investment products, approving new investment products or terminating existing investment products.
- Under an inter-agency agreement and administrative rule, the SBA responds to requests from the Bureau to review whether proposed investment product changes pass minimum qualifying criteria for acceptability and provides comments to the Bureau for consideration prior to their approval or rejection.
- The SBA has no responsibilities with respect to local deferred compensation plans.

The above amendment clarifies that the SBA will remain responsible for approving the establishment of deferred compensation plans for state employees, but local governments will continue to approve the establishment of plans and products for their employees.

- The SBA does not have the staff or budget necessary to review plans or investment products for local government plans.
- The SBA is not aware of demand by local governments for the state to approve investment products offered in their local plans.
- The SBA strongly prefers to avoid fiduciary duties for any deferred compensation plan (consistent with approved Board policy on non-FRS DC plans). If required to approve investment products or providers for local or state deferred compensation plans, the SBA would de facto be assigned fiduciary duties and potential liability.

CHAMBER ACTION

The Governmental Operations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to deferred compensation programs; amending s. 20.121, F.S., relating to the Department of Financial Services, to conform; amending s. 112.215, F.S.; revising the term "employee" and defining the term "governmental entity"; authorizing governmental entities, by ordinance, contract agreement, or other documentation, to participate in the deferred compensation plan of the state and specifying responsibility of the Chief Financial Officer with respect thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.--There is created a Department of Financial Services.

(2) DIVISIONS.--The Department of Financial Services shall consist of the following divisions:

(d) The Division of Treasury, which shall include a Bureau of Deferred Compensation responsible for administering the Government Employees Deferred Compensation Plan as provided in ~~established under~~ s. 112.215 ~~for state employees~~.

Section 2. Subsection (2), paragraphs (a) and (d) of subsection (4), and subsections (5), (6), and (12) of section 112.215, Florida Statutes, are amended to read:

112.215 Government employees; deferred compensation program.--

(2)(a) For the purposes of this section, the term "employee" means any person, whether appointed, elected, or under contract, providing services for a governmental entity ~~the state; any state agency or county or other political subdivision of the state; any municipality; any state university board of trustees; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution~~ for which compensation or statutory fees are paid.

(b) "Governmental entity" means the state; any state agency or county or other political subdivision of the state; any municipality; any state university board of trustees; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution.

(4)(a) The Chief Financial Officer, with the approval of the State Board of Administration, shall establish such plan or plans of deferred compensation for ~~state~~ employees of governmental entities, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one

or more such plans for implementation by and on behalf of governmental entities ~~the state~~ and their ~~its agencies and~~ employees.

(d) In accordance with such approved plan, and upon contract or agreement with an eligible employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer or officers of the governmental entity ~~state~~, with such funds being thereafter held and administered in accordance with the plan.

(5) Any county, municipality, or other political subdivision of the state may by ordinance, and any constitutional county officer under s. 1(d), Art. VIII of the State Constitution of 1968 may by contract agreement or other documentation constituting approval, for itself and its employees:

(a) Adopt and establish ~~for itself and its employees~~ a deferred compensation program. The ordinance shall designate an appropriate official of the county, municipality, or political subdivision to approve and administer a deferred compensation plan or otherwise provide for such approval and administration. The ordinance shall also designate a public official or body to make the determinations provided for in paragraph (6)(b). If a constitutional county officer elects to adopt and establish for that office and its employees a deferred compensation program, the constitutional county officer shall be the appropriate official to make the determinations provided for in this subsection and in paragraph (6)(b);~~.~~

(b) Adopt the plan or plans of deferred compensation for employees of governmental entities established pursuant to subsection (4); or

(c) Both adopt and establish a deferred compensation program and adopt the plan or plans of deferred compensation for employees of governmental entities established pursuant to subsection (4).

(6)(a) No deferred compensation plan of the state shall become effective until approved by the State Board of Administration and the Chief Financial Officer is satisfied by opinion from such federal agency or agencies as may be deemed necessary that the compensation deferred thereunder, ~~and/or~~ the investment products purchased pursuant to the plan, or both will not be included in the employee's taxable income under federal or state law until it is actually received by such employee under the terms of the plan, and that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of social security coverage, for the purposes of the state retirement system, or ~~and~~ for any other retirement, pension, or benefit program established by law.

(b) No deferred compensation plan adopted and established by ~~of~~ a county, municipality, other political subdivision, or constitutional county officer shall become effective until the appropriate official or body designated under subsection (5) is satisfied by opinion from such federal agency or agencies as may be deemed necessary that the compensation deferred thereunder, ~~and/or~~ the investment products purchased pursuant to the plan, or both will not be included in the employee's taxable income

under federal or state law until it is actually received by such employee under the terms of the plan, and that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of social security coverage, for the purposes of the retirement system of the appropriate county, municipality, political subdivision, or constitutional county officer, and for any other retirement, pension, or benefit program established by law.

(12) The Chief Financial Officer may adopt any rule necessary to administer and implement this act with respect to deferred compensation plans for ~~state~~ employees of governmental entities that have adopted the state's plan.

Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 573 Disabled Veterans
SPONSOR(S): Bilirakis and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1342

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Veteran Affairs Committee	7 Y, 0 N	Marino	Cutchins
2) Local Government Council		Smith T.L.S.	Hamby JJH
3) Finance & Tax Committee			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

Under current law, certain disabled veterans are exempt from local government building permit fees for wheelchair accessibility improvements on a mobile home. HB 573 expands this license and permit fee exemption to apply to any eligible, disabled veteran improving wheelchair accessibility to include any dwelling owned by the veteran and used as a residence.

There appears to be no fiscal impact on state government. The fiscal impact on local government revenues is indeterminate, yet expected to be minimal.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes/safeguard individual liberty – This bill provides 100-percent, service-connected permanently and totally disabled veterans confined to wheelchairs an exemption on any license or permit fee to make improvement on their residence. Current law limits the exemption to improvements on a mobile home.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Florida Building Code

Under current law, any person or organization seeking to construct, modify, or demolish a building in Florida must obtain a permit[1]. The permit must be obtained through a Florida Building Code enforcing agency, such as a county or municipal local government. Local governments are authorized[2] to charge reasonable permit fees to defray the costs of actions, such as building plan and construction inspections, associated with enforcement of the Code.

In addition, each county and municipality is authorized[3] to create a schedule of fees based upon the specific enforcement needs and requirements for that locality. In the case of remodeling permits, the fee structure generally includes a base or application fee, plus an additional amount based on the construction value of the remodeling project. The table below shows current remodeling permit fee valuations from a county and a municipality:

Remodeling Permit Fees			
Broward County	City of Tallahassee		
	Construction Value	Application Fee	Valuation Fee
Minimum base permit fee $111 added to a charge calculated at a rate of 1.60% of the remodeling job construction value.	$10,000 or less	$60	$14/$1000
	50K or less	240	1.20/1000
	100K or less	288	0.38/1000
	Over 100K	326	0.38/1000

Disabled Veteran Exemption

Section 295.16, F.S., allows certain veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, provided the following criteria are met:

- The veteran must be a resident of Florida;
- The veteran must be permanently and totally disabled and be able to show:
  - A valid identification card[4] issued by the Florida Department of Veterans' Affairs;
  - A service-connected 100-percent disability rating for compensation as determined by the United States Department of Veterans' Affairs; or
  - A disability retirement pay receipt from any branch of the uniformed armed services for a 100-percent, service-connected disability rating;
- The veteran must be honorably discharged from the Armed Forces;

[1] Section 553.79, F.S.
[2] Sections 125.56(2) and 166.222, F.S.
[3] Section 553.80(7), F.S.
[4] Section 295.17, F.S.

- The veteran must own and reside in the mobile home for which the improvements are being made; and
- The veteran may only make improvements to his or her mobile home such as adding ramps, widening doorways, and similar improvements for the purpose of making the mobile home wheelchair-habitable.

Typical improvements or alterations[5] that may need to be made in order to make a mobile home more habitable for an eligible wheelchair-confined veteran include, but are not limited to:

- Outside: ramps, railings, primary entrance with widened doorway into home; or,
- Inside: ramps, railings, widened doorways, lowered countertops, wheelchair turning space, wheelchair lifts, toilet and bathing facilities, clear floor space to reach appliances.

Section 295.16, F.S., does not appear to place restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restriction on the number of times improvements may be made to the mobile home. Additionally, it does not appear to remove the requirement for obtaining a permit for the improvements as in s. 553.79, F.S.

Disabled Veteran ID Card and License Plate

Section 295.17, F.S., provides that the Florida Department of Veterans' Affairs (DVA) may issue a photo-identification card to any veteran who is a permanent resident of the state and who has been determined by the U.S. Department of Veterans' Affairs (USDVA) or its predecessor to have a 100-percent, service-connected permanent and total disability rating for compensation, or who has been determined to have a service-connected disability rating of 100-percent and is in receipt of disability retirement pay from any branch of the uniformed armed services. The ID card eligible veteran may request the card in writing to the DVA, and, upon its receipt, the veteran may use the card as proof of identification for all benefits provided by state law for 100-percent, service-connected permanently and totally disabled veterans except for certain benefits relating to property tax exemptions.

Not all 100-percent, service-connected, permanently and totally disabled veterans are confined to wheelchairs. For example, a veteran could be rated with a 100-percent permanent and total disability for post-traumatic stress disorder, yet not require a wheelchair. In addition not all wheelchair-confined veterans are 100-percent, service-connected, permanently and totally disabled.

Under s. 320.084(2), F.S., a veteran who produces a DVA ID card, as provided for in s. 295.17, F.S., to the Florida Department of Highway Safety and Motor Vehicles (DHSMV) must be issued one free motor vehicle license plate for use on any motor vehicle owned or leased by the veteran. Since each veteran who receives this benefit is limited to one free license plate and each veteran who qualifies for this benefit is likely to use it, this statute provides a means to estimate the number of 100-percent, service-connected permanent and totally disabled veterans living in Florida. According to the DHSMV, as of January 11, 2006, there were 4,556 disabled veteran wheelchair license plates issued in the state[6].

Effect of Proposed Change:

HB 573 expands the permit fee exemption in s. 295.16, F.S., from only applying to those eligible, disabled veterans who own and occupy mobile homes, to applying to such veterans who own and occupy any dwelling.

The provisions of this bill will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible.

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[5] Architectural and Transportation Barriers Compliance Board. ADA and ABA Accessibility Guidelines for Buildings and Facilities. Federal Register. July 23, 2004 and amended August 5, 2005.

[6] Communication with Steve Fielder of the Florida Department of Highway Safety and Motor Vehicles (January 13, 2006) (on file with House of Representatives, Committee on Military and Veteran Affairs).

This bill does not appear to place any restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restrictions on the number of times improvements may be made to the mobile home. Additionally, it does not appear to remove the requirement for obtaining a permit for the improvements as in s. 553.79, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 295.16, F.S., by replacing the phrase *mobile home* with the phrase *any dwelling*, effectively expanding the building license or permit fee exemption to a greater population of disabled veterans who make wheelchair accessibility improvements to their owner-occupied residences.

Section 2. Provides for act to take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   There are no known or expected fiscal impacts on state revenues.

2. Expenditures:

   There are no known or expected fiscal impacts on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The fiscal impact on local government revenues is indeterminate. However, the impact is expected to be minimal.

   The impact on revenues is indeterminate since it is unknown exactly how many eligible veterans would use this benefit. According to the DHSMV license plate information, at least 4,556 100-percent, service-connected permanent and totally disabled wheelchair-confined veterans currently reside in Florida, therefore, this number may be considered the ceiling of veterans eligible for the benefit under this bill. Some considerations that make this bill's fiscal impact indeterminate are as follows:

   - It is unknown how many eligible veterans own dwellings other than mobile homes;
   - It is unknown how many eligible veterans have already made wheelchair accessibility improvements to their existing dwellings and would thus not need the permit fee exemption;
   - It is unknown how many eligible veterans may move their residence to a different home that would require wheelchair accessibility improvements;
   - It is unknown what wheelchair accessibility improvements are necessary to be made to each eligible veteran's dwelling;
   - It is unknown how much each wheelchair accessibility improvement costs, which affects the amount of the permit fee since the permit fee, in most cases, is determined based on the value of the construction and improvement costs; and,
   - It is unknown where eligible veterans live or might move to, which is necessary to determine which local government's fee schedule the eligible veteran would be exempted from.

The impact on revenues is expected to be minimal. According to representatives from the Construction Licensing Officials Association of Florida and the Florida Association of Counties[7], the fiscal impact does not appear to degrade enforcing agencies' abilities to enforce the Florida Building Code with regard to eligible dwellings under this bill.

2. Expenditures:

There are no known or expected fiscal impacts on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill provides a potential financial benefit to eligible veterans. According to the DVA, one veteran in particular could have saved $350 in permitting fees for a door-widening project that was necessary to improve wheelchair accessibility to his home[8].

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

There do not appear to be any constitutional issues with this bill.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[7] Communications with Bill Brode of the Construction Licensing Officials Association of Florida and Jeff Porter of the Florida Association of Counties (on or about January 26, 2006).

[8] Florida Department of Veterans' Affairs. Legislative Policy Proposal Summary Sheet: Exempt 100% Disabled Veterans from Certain County Building Permit Fees (August, 18, 2005).

A bill to be entitled

An act relating to disabled veterans; amending s. 295.16, F.S.; expanding exemption from certain fees relating to structural improvements to a disabled veteran's residence; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 295.16, Florida Statutes, is amended to read:

295.16 Disabled veterans exempt from certain license or permit fee.--No totally and permanently disabled veteran who is a resident of Florida and honorably discharged from the Armed Forces, who has been issued a valid identification card by the Department of Veterans' Affairs in accordance with s. 295.17 or has been determined by the United States Department of Veterans Affairs or its predecessor to have a service-connected 100-percent disability rating for compensation, or who has been determined to have a service-connected disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the uniformed armed services~~,~~ shall be required to pay any license or permit fee, by whatever name known, to any county or municipality in order to make improvements upon a dwelling ~~mobile home~~ owned by the veteran which is used as the veteran's residence, provided such improvements are limited to ramps, widening of doors, and similar improvements for the purpose of making the dwelling ~~mobile home~~ habitable for veterans confined to wheelchairs.

Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 683 Developments of Regional Impact
SPONSOR(S): Traviesa
TIED BILLS: **IDEN./SIM. BILLS:** SB 1020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Strickland BS.	Hamby
2) Growth Management Committee			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 683 makes several changes to statutory provisions governing developments of regional impact (DRI). The bill:

- requires the Department of Community Affairs (DCA) to initiate rulemaking by August 1, 2006 to revise the development of regional impact review process;
- makes various revisions and additions to the existing statutory law pertaining to development orders and permits issued by local governments;
- revises the definition of an "essentially built – out development;"
- prohibits the suspension of a development order for failure to submit a biennial report under certain circumstances;
- revises the criteria under which a proposed change is presumed to create a substantial deviation requiring further review;
- requires that notice of certain changes be given to the DCA, regional planning agency, and local government, as well as requiring that a memorandum of notice of certain changes be filed with the clerk of court;
- revises the period of time for notice and a public hearing after a change to a development order;
- revises statutory exemptions to the DRI process;
- revises how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review;
- revises existing law pertaining to consistency challenges made to a DRI development order;
- revises the vested rights and duties as it relates to provisions of this bill taking effect; and
- makes various revisions to conform to the amendments within this bill.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill streamlines aspects of the development of regional impact process thereby reducing responsibilities for governmental and private organization.

Safeguard individual liberty - The bill reduces government oversight of some activities presently reviewed as DRIs and thereby increases the options of individuals regarding the conduct of their own affairs.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 380.06, F.S., governs the Development of Regional Impact (DRI) program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Ch. 28-24, F.A.C. Examples of the land uses for which guidelines are established include: airports; attractions and recreational facilities; industrial plants and industrial parks; office parks; port facilities, including marinas; hotel or motel development; retail and service development; recreational vehicle development; multi-use development; residential development; and schools.

The DRI review process involves the regional review of proposed developments meeting the defined thresholds by the regional planning councils to determine the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities.
- The development will significantly impact adjacent jurisdictions.
- The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

Percentage thresholds, as defined in 380.06(2)(d), F.S., are applied to the guidelines and standards. These fixed thresholds provide that if a development is at or below 100% of all numerical thresholds in the guidelines, the project is not required to undergo DRI review. If a development is at or above 120% of the guidelines, it is required to undergo DRI review. A rebuttable presumption is established whereby a development at 100% of a numerical threshold or between 100-120% of a numerical threshold is presumed to require DRI review.

If there is a concern over whether a particular development is subject to DRI review, the developer may request a determination from the Department of Community Affairs (DCA). The DCA or the local government with jurisdiction over the land to be used for the proposed development may require a developer to obtain a binding letter of interpretation if the development is at a presumptive threshold or up to 20 % above the established numerical threshold. Any other local government may petition DCA to require a binding letter of interpretation for a development located in an adjacent jurisdiction if the petition contains sufficient facts to find that the development as proposed constitutes a DRI.

Under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a reasonable likelihood of additional regional impact or any type of regional impact, resulting from a change not previously reviewed by the regional planning council, constitutes a "substantial deviation" that subjects the development to further DRI review and entry of a new or amended local development order. Section 380.06(19), F.S., provides that a proposed change to a previously approved DRI which,

either individually or cumulatively with other changes, exceeds specified criteria constitutes a substantial deviation and is subject to further DRI review.

The extension of the date of buildout of a development, or any phase thereof, of 5 years or more but less than 7 years is presumed not to create a substantial deviation. However, the extension of buildout by 7 or more years is presumed to create a substantial deviation and is subject to further DRI review. However, this presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government. When calculating whether a buildout date has been exceeded, time is tolled during the pendency of administrative or judicial proceedings relating to development permits.

Marinas

In 2002, the Legislature created an exemption for marinas from DRI review if the local government has adopted a boating facility siting plan or policy within its comprehensive plan.

The DCA, in cooperation with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission makes available a best practices guide to assist local governments in developing boating facility siting plans. A boating facility siting plan provides a framework for identifying locations that can accommodate boating interests while protecting manatees, seagrass beds, and other marine resources.

Multiuse Developments

Section 380.06(2)(e), F.S., increases the applicable guidelines and standards by 100 % for multiuse projects in urban central business districts and regional activity centers if the local government's comprehensive plan is in compliance with part II of ch. 163, F.S., and if one land use in the mulituse development is residential and amounts to not less than 35 % of the jurisdiction's applicable residential threshold. An urban central business district is defined as the urban core area of a municipality with a population of 25,000 or greater which is located within an urbanized area as identified in the 1990 census. Such a district must contain high intensity, high density multi-use development which includes "retail, office, cultural, recreational and entertainment facilities, hotels or motels, or other appropriate industrial activities. A regional activity center is defined as a compact, high intensity, high density multi-use area that is designated appropriate for intensive growth by the local government. It includes the same uses as an urban central business district.

Currently, the individual DRI threshold is increased 50 % within an urban central business district or a regional activity center. However, the multiuse DRI threshold within such a district or center enjoys a 100 % increase.

Effect of Proposed Change

HB 683 amends existing law and creates new law related to developments of regional impact (DRI). A DRI by definition is "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county. Specifically, the bill addresses law establishing:

- a process for review of DRIs and for the issuance of a development order (DO) which details specifics regarding the scope and timing of the development and serves as the authority to commence and complete the development;
- what constitutes a "substantial deviation" of the DO which would necessitate additional review;
- statutory exemptions that prevent DRI review;
- statewide guidelines and standards for determining what activities require DRI review; and
- vested rights and associated duties of the respective parties.

Details of the changes to existing law are outlined below.

Preapplication Procedures

The bill amends existing law relating to preapplication procedures in the following ways:

- Rulemaking: amends existing law[1] regarding rulemaking related to the DRI application process. The bill authorizes the Department of Community Affairs (DCA), rather than the regional planning council, as the rulemaking authority for regulatory provisions related to the DRI application process. The bill also mandates that DCA initiate, by August 1, 2006, rulemaking to: revise the DRI review process to eliminate duplication and unnecessary requirements; provide for the acceptability of data provided for related federal, state, and local permits and authorizations; and streamline the application process.

Development Order

The bill creates the following additional criteria to determine whether a local government may issue permits for developments subsequent to the buildout date:

- the developer has satisfied all mitigation required in the DO.
- the development is in compliance with all applicable terms and conditions of the DO, except the buildout date; and
- the amount of remaining proposed development is less than 20% of any applicable DRI threshold.

This new feature provides for limited development beyond the DRI buildout date when the existing and remaining development meets the criteria.

The bill allows a project to be considered "essentially built-out" if:

- all of the infrastructure and horizontal development is complete; and
- more than 80% of the parcels have been conveyed to third-party buyers.

The bill amends the following statutory provisions relating to DOs:

- Termination date – existing law provides that the local government's DO specify a termination date before which certain land use changes would not apply to the approved DRI unless a substantial deviation occurs. Specifically, the bill amends existing law to provide that the DO may not specify that date as being earlier than the buildout date. s. 380.06(15)(c)3., F.S.
- Notice of proposed change – existing law provides that the DO may specify the types of changes which would require a substantial deviation determination. The bill amends existing law by authorizing the DO to specify the types of changes that would require a substantial deviation, if any, and extending that language to include a "notice of proposed change." s. 380.06(15)(c)5., F.S.
- Competitive bidding or competitive negotiation – existing law provides that a local government may require competitive bidding or competitive negotiation where construction or expansion of a public facility is conducted by a nongovernmental developer as a condition of a DO or to mitigate impacts reasonably attributable to the development. The bill amends existing law by removing that discretion and thus disallows local government from requiring competitive bidding. s. 380.06(15)(d)4., F.S.

[1] Section 380.06(7), F.S.

Biennial Reports

The bill amends existing law regarding the submission of biennial reports as follows:

- Failure to report – is amended to provide that failure to submit a biennial report shall result in the suspension of only the development order applicable to the property remaining to be developed by the party failing to submit the report. Thus, other developers within a DRI who comply with their reporting requirements will not have the development order suspended as it relates to their property.

- Annual Reports – is amended by changing a discretionary provision to a mandatory provision regarding development orders that require annual reports, resulting in a requirement that development orders that require annual reports be amended to require biennial reports the next time they are amended.

Substantial Deviations

The bill amends existing law pertaining to the percentage and unit thresholds and provides for a presumption that the activities trigger DRI review. Existing law strictly requires DRI review when percentage and unit thresholds are met or exceeded. The amended percentage and unit thresholds follow.

- Attraction or recreational facility - is amended to the greater of an increase of 10% or 500 parking spaces (from 5% or 300 spaces), or an increase to the greater of 10% or 1,100 spectators.

- Runway or terminal facility - is not amended.

- Hospitals – the threshold for hospitals is deleted.

- Industrial is amended to the greater of 10% or 64 acres (from 5% or 32 acres).

- Mines - is amended to the greater of an increase in the average annual acreage mined by10 % or 20 acres (from 5% or 10 acres) or to the greater of an increase in the average daily water consumption by a mining operation by 10 % or 600,000 gallons (from 5% or 300,000 gallons). It is further amended to the greater of an increase of the size of the mine by 10% or 1000 acres (from 5% or 750 acres).

- Office development – is amended to the greater of an increase in land area by 10 % (from 5%) or an increase of gross floor area by 10 % (from 5%) or 100,000 gross square feet (from 60,000).

- Marina development – is created to the greater of 10% of wet storage or 30 watercraft slips; or to the greater of 20% of wet storage or 60 watercraft slips in an area identified by a local government in a boat facility siting plan as an appropriate site for additional marina development.

- Storage capacity for chemical or petroleum storage facilities – the threshold for these facilities is deleted.

- Waterport or wet storage – the threshold for waterport or wet storage is deleted.

- Dwelling units – is amended to the greater of 10% or 100 dwelling units (from 5% or 50 dwelling units).

- Commercial development – is amended to the greater of 100,000 square feet (from 50,000 square feet) of gross floor area; or of parking spaces for customers for 600 cars (from 300 cars); or a 10% increase (from 5% increase) of either of these.

- Hotel or motel rooms – is amended to the greater of an increase in hotel or motel rooms by 10% or 100 rooms (from 5% or 75 units).

- Recreational vehicle park area – is amended to the lesser of an increase in a recreational vehicle park area by 10% (from 5%) or 100 vehicle spaces.

- Approved multiuse DRI – is amended to 120% of the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria.

The bill amends existing law in the following ways relating to presumptions concerning substantial deviations:

- Presumption of a substantial deviation - a presumption of a substantial deviation for an extension of the date of buildout of a development is created by an extension of more than 10 years (from 7 or more years).

- Presumption of no substantial deviation – a presumption of no substantial deviation is created by an extension of the buildout date of more than 5 years (from 5 or more years), but less than 7 years.

- No substantial deviation - An extension of 7 years or less (from less than 5 years) is not a substantial deviation.

The bill establishes that the following changes do not constitute substantial deviations:

- Protected lands -

    - changes that modify boundaries to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment.

    - this only applies to areas previously set aside for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State.

- Internal utility locations – changes to internal utility locations are added to the changes that do not constitute substantial deviations.

- Internal location of public facilities – changes to the internal location of public facilities is added to the changes that do not constitute substantial deviations.

The bill amends existing law to provide for notice prior to implementation of the types of non substantial deviation changes addressed above. The specific requirements are as follows:

- Notice - The developer must give notice to DCA, the regional planning agency, and the local government.

- Circuit Court Filing – A memorandum of the notice must be filed with the clerk of the circuit court along with a legal description of the affected DRI.

- Subsequent Changes - If a subsequent change requiring a substantial deviation determination is made to the DRI, then modifications to the DRI made in all prior notices must be reflected as amendments to the DO.

The bill amends existing law as it pertains to proposed changes that require further DRI review as follows:

- Scope of mitigation – changes existing law to limit the scope of mitigation required as a result of a proposed change to a DO. The amended language limits such new mitigation to the individual and cumulative impacts caused only by the proposed change.

- Continuance of development – amends existing law by providing that development within the DRI may continue during the DRI review in those portions of the development which are not directly affected by the proposed change.

Statutory Exemptions

The bill amends current DRI exemptions providing that if a use is exempt from review as a DRI under the following circumstances or any other paragraphs under this subsection, but is a part of a larger project that is subject to review as a DRI, the impact of the exempt use must be included in the review of the larger project.

- Hospitals - removes the 100 bed capacity limitation; thus providing that all hospitals are exempt.

- Steam or solar electrical generating facility - removes the exception of a steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a DRI from the exemption for proposed electrical transmission lines or electrical power plants

- Waterport or marina development - removes the term "waterport;" a reference to a boat facility siting guide dated August 2000; and a limitation for facilities with siting plans and policies adopted prior to April 1, 2002.

- Adjacent jurisdictions – amends existing law which allows a DRI exemption for certain proposed development within an urban service area. The amendment changes one of the criterion for the exemption that requires a binding agreement with an adjacent jurisdiction. The amendment changes the requirement to a "contiguous" jurisdiction.

- Urban service boundaries – amends existing law providing that if the binding agreement is not entered into within 12 months after establishment of the urban service boundaries, then DOT shall adopt within 90 days a reasonable impact-mitigation plan that is applicable in lieu of the binding agreement.

- Urban infill and redevelopment area – amends existing law by deleting the requirement for the local government to enter into a binding agreement with jurisdictions: that would be impacted by the development and DOT, regarding the mitigation of impacts on state and regional transportation facilities in addition to the adoption of proportionate share methodology.

The bill creates six new exemptions to existing law as follows:

- Self storage warehousing - any self-storage warehousing that does not allow retail or other services.

- Nursing home or assisted living facility - any proposed nursing home or assisted living facility.

- Airport master plan - any development identified in an airport master plan and adopted into the comprehensive plan

- Campus master plan - any development identified in a campus master plan and adopted pursuant to s. 1013.30, F.S. (related to campus master plans and campus DOs).

- Specific area plan - any development in a specific area plan which is prepared pursuant to s. 163.3245 (related to optional sector plans) and adopted into the comprehensive plan.

- Exceptions from transportation concurrency – any development granted an exception from concurrency requirements for transportation facilities that has fulfilled all requirements to be granted such an exception, including the creation of a proportionate share mitigation methodology for transportation facilities, which methodology has been adopted into the comprehensive plan.

Additional new language provides that if a use is exempt from DRI review but is part of a larger project that is subject to DRI review, then the exempt use must be included in review of the larger project.

Statewide Guidelines and Standards

The bill amends existing law addressing how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review.

- Airports -- is amended by providing that airport construction projects required to undergo DRI review pursuant to criteria set forth in 380.0651, F.S., may be exempt under 380.06 (24).

- Attractions and recreation facilities – deletes criteria for requiring DRI review of attractions and recreation facilities.

- Port facilities – substitutes "marina" for "port facility"; removes a reference to "waterport"; and provides criteria requiring DRI review rather than excepting certain activities as provided in existing law. Deletes all dry storage as a use requiring DRI review.

- Wet Storage -- criteria requiring DRI review are provided as follows:

    - Wet storage or mooring of more than 150 watercraft used for sport, pleasure, or commercial fishing. Under existing law, wet storage or mooring must be used "exclusively" for wet storage or mooring.

    - Wet storage or mooring of more than 150 watercraft on or adjacent to an inland freshwater lake (except Lake Okeechobee or any lake that has been designated as an Outstanding Florida Water).

- Schools – deletes the criteria for consideration of DRI review for schools.

- Aggregation - Amends existing law to lessen the prohibition preventing DCA from aggregating developments for which a final DO has been issued. Specifically, the amendment changes the phrase "shall not" to "may not." Additionally, as amended, DCA is not precluded from evaluating an alleged separate development as a substantial deviation of an existing DRI, or as an independent DRI. And, in such cases, the impacts of the independent DRIs may not be considered cumulatively.

The bill excludes subthreshold exceptions from applying to marina facilities located within or which serve physical development located within a coastal barrier resource unit on an unbridged barrier island.

Additionally, the bill increases the exemption threshold for certain projects for which no environmental resource permit or sovereign submerged land lease is required. The threshold is increased to 75 slips or storage spaces or a combination of the two. Existing law contains a 10 slip or storage space or combination threshold.

Florida Land and Water Adjudicatory Commission

The bill amends existing law related to challenges to provide the following:

- Consistency challenges – amends existing law to provide that 163.3215, F.S., is the sole mechanism for challenging the consistency of a DRI development order with the local government's comprehensive plan.

- Limited Standing – amends existing law to provide that DCA has limited standing to initiate an action under s. 163.3215, F.S., to determine the consistency of a DRI development order with the local government's comprehensive plan.

Vested Rights and Duties

The bill amends existing law related to the vested rights of DRIs. The amendment makes changes as follows:

- Vested rights are not abridged or modified by a change in the DRI guidelines and standards. s. 380.115, F.S.

- Revises the procedures affecting a DRI which is no longer required to undergo DRI review because of a change in the guidelines or standards, or because of a reduction that lowers the development below the thresholds.

- Specifically, the local government having jurisdiction shall rescind the DO upon a showing by the developer or the landowner that all required mitigation related to the amount that existed on the date of rescission has been completed. s. 380.115 (1) (b), F.S.

- Unless the developer follows this procedure, the DRI continues to be governed by, and may be completed in reliance upon, the DO.

- If an application for development approval, or a notification of proposed change, is pending on the effective date of a change to the guidelines and standards, then the development may elect to continue the DRI review which is governed by the vested rights provision.

Concurrency

The bill amends existing law relating to concurrency to conform a cross-reference.

Spaceport Launch Facilities

The bill amends existing law relating to spaceport launch facilities to conform a cross-reference.

C. SECTION DIRECTORY:

Section 1: Amends ss. 380.06(2)(d), (7)(b), (15), (19), and (24), F.S., relating to developments of regional impact (DRI).

Section 2: Amends s. 380.0651, F.S., relating to statewide guidelines and standards for determining what development activities must undergo DRI review.

Section 3: Creates s. 380.07, F.S., relating to the Florida Land and Water Adjudicatory Commission.

Section 4: Amends s. 380.115, F.S., relating to vested rights and duties of DRI projects as it relates to the provisions of this bill taking effect.

Section 5: Amends s. 163.3180, F.S., relating to concurrency, to conform to amendments within this bill.

Section 6: Amends s. 331.303, F.S., relating to the definition of spaceport launch facilities to conform to amendments within this bill.

Section 7: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill requires DCA to initiate rulemaking to streamline the DRI review process by July 1, 2006. The amount of this fiscal impact has not yet been determined.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The development community would benefit from increased thresholds and expanded exemptions from the DRI review process.

D. FISCAL COMMENTS:

No additional fiscal comments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

There do not appear to be other constitutional issues with the bill.

B. RULE-MAKING AUTHORITY:

The bill requires DCA to initiate rulemaking by July 1, 2006, to revise the DRI review process.

C. DRAFTING ISSUES OR OTHER COMMENTS:

There do not appear to be any drafting issues.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to developments of regional impact; amending s. 380.06, F.S.; conforming a cross-reference; requiring the state land planning agency to initiate rulemaking by a specific date to revise the development-of-regional-impact review process; requiring a local government to issue development orders concurrently with comprehensive plan amendments; specifying certain requirements for a development order; prohibiting a local government from issuing permits for development subsequent to the buildout date; revising the circumstances in which a local government may issue subsequent permits for development; revising the definition of an essentially built-out development; prohibiting the suspension of a development order for failure to submit a biennial report under certain circumstances; revising the criteria under which a proposed change is presumed to create a substantial deviation; requiring that notice of certain changes be given to the state land planning agency, regional planning agency, and local government; requiring that a memorandum of notice of certain changes be filed with the clerk of court; revising the period of time for notice and a public hearing after a change to a development order has been submitted; revising the requirement for further development-of-regional-impact review of a proposed change; revising the statutory exemptions for the development of certain facilities; providing statutory exemptions for the development of

certain facilities; providing that the impacts from a use that will be part of a larger project be included in the development-of-regional-impact review of the larger project; amending s. 380.0651, F.S.; removing the application of statewide guidelines and standards for development-of-regional-impact review to the construction of certain attractions and recreation facilities; revising the statewide guidelines and standards for development-of-regional-impact review of the construction of certain marinas; removing the application of statewide guidelines and standards for development-of-regional-impact review to the construction of certain schools; prohibiting the state land planning agency from considering an impact of an independent development of regional impact cumulatively under certain circumstances; amending s. 380.07, F.S.; providing a mechanism for challenging the consistency of a development order with a local government comprehensive plan; providing that the Department of Community Affairs has standing to initiate an action to determine the consistency of a development order with a local government comprehensive plan; amending s. 380.115, F.S.; providing that a change in a development-of-regional-impact guideline and standard does not abridge or modify any vested right or duty under a development order; amending ss. 163.3180 and 331.303, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (2), paragraph (b) of subsection (7), and subsections (15), (18), (19), and (24) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.--

(2) STATEWIDE GUIDELINES AND STANDARDS.--

(d) The guidelines and standards shall be applied as follows:

1. Fixed thresholds.--

a. A development that is below 100 percent of all numerical thresholds in the guidelines and standards shall not be required to undergo development-of-regional-impact review.

b. A development that is at or above 120 percent of any numerical threshold shall be required to undergo development-of-regional-impact review.

c. Projects certified under s. 403.973 which create at least 100 jobs and meet the criteria of the Office of Tourism, Trade, and Economic Development as to their impact on an area's economy, employment, and prevailing wage and skill levels that are at or below 100 percent of the numerical thresholds for industrial plants, industrial parks, distribution, warehousing or wholesaling facilities, office development or multiuse projects other than residential, as described in s. 380.0651(3)(b), (c), and (h) ~~380.0651(3)(c), (d), and (i)~~, are not required to undergo development-of-regional-impact review.

2. Rebuttable presumption.--It shall be presumed that a development that is at 100 percent or between 100 and 120 percent of a numerical threshold shall be required to undergo

development-of-regional-impact review.

(7) PREAPPLICATION PROCEDURES.--

(b) The state land ~~regional~~ planning agency shall establish by rule a procedure by which a developer may enter into binding written agreements with the regional planning agency to eliminate questions from the application for development approval when those questions are found to be unnecessary for development-of-regional-impact review. By August 1, 2006, the department shall initiate rulemaking to revise the development-of-regional-impact review process. The department shall eliminate as many duplicative or unnecessary requirements and questions as possible; provide for the acceptability and use of data and information provided by the applicant for federal, state, or local government permits and authorizations required for the proposed development; and revise and streamline the application process for development approval in order to provide for a more efficient review of an application. It is the legislative intent of this subsection to encourage reduction of paperwork, to discourage unnecessary gathering of data, and to encourage the coordination of the development-of-regional-impact review process with federal, state, and local environmental reviews when such reviews are required by law.

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

(a) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

(b) Unless otherwise requested by the applicant ~~When possible~~, the local government ~~governments~~ shall issue

development orders concurrently with comprehensive plan amendments and, when practicable, with any other local permits or development approvals that may be applicable to the proposed development.

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.

2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a buildout ~~termination~~ date that reasonably reflects the time anticipated ~~required~~ to complete the development.

3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare. The date established pursuant to this subparagraph shall be no sooner than the buildout date of the project.

4. Shall specify the requirements for the biennial report designated under subsection (18), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.

5. Shall ~~May~~ specify the types of changes, if any, to the development which shall require submission for a substantial deviation determination or a notice of proposed change under subsection (19).

6. Shall include a legal description of the property.

(d) Conditions of a development order that require a developer to contribute land for a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:

1. The need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the impacts reasonably attributable to the proposed development.

3. Any funds or lands contributed must be expressly designated and used to mitigate impacts reasonably attributable

to the proposed development.

4. Construction or expansion of a public facility by a nongovernmental developer as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional for any part of the construction or design ~~unless required by the local government that issues the development order~~.

(e)1. ~~Effective July 1, 1986,~~ A local government shall not include, as a development order condition for a development of regional impact, any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof unless the local government has enacted a local ordinance which requires other development not subject to this section to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. A local government shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development unless the local government includes in the development order a commitment by the local government to provide these facilities consistently with the development schedule approved in the development order; however, a local government's failure to meet the requirements of subparagraph 1.

and this subparagraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development.

3. The Department of Community Affairs and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government in preparing and adopting local impact fee and other contribution ordinances.

(f) Notice of the adoption of a development order or the subsequent amendments to an adopted development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any amendments may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property, or actual or constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980.

(g) A local government may ~~shall not~~ issue permits for development subsequent to the buildout ~~termination date or expiration~~ date contained in the development order if ~~unless~~:

~~1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) subsequent to the termination or expiration date;~~

1.~~2.~~ The proposed development is consistent with an abandonment of development order that has been issued in accordance with the provisions of subsection (26); ~~or~~

2. The proposed development has satisfied the mitigation requirements in the development order and meets the requirements of sub-sub-subparagraph 3.b.(I); or

3. The project has been determined to be an essentially built-out development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built-out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations or subject to a modified development-of-regional-impact analysis. As used in this paragraph, an "essentially built-out" development of regional impact means:

a. The development is in compliance with all applicable

terms and conditions of the development order except the built-out date; and

b.(I) The amount of development that remains to be built is less than 20 percent of the development approved by the original development order but not more than the applicable development-of-regional-impact threshold. Development may also be considered essentially built-out if all the infrastructure and horizontal development for the project has been completed and more than 80 percent of the parcels have been conveyed to third-party buyers, including builders and individual lot owners ~~the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent~~; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

(h) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.

(18) BIENNIAL REPORTS.--The developer shall submit a biennial report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies in alternate years on the date specified in the development order, unless the

development order by its terms requires more frequent monitoring. If the report is not received, the regional planning agency or the state land planning agency shall notify the local government. If the local government does not receive the report or receives notification that the regional planning agency or the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order applicable to the property remaining to be developed by the party failing to submit the report. If other developers within a development of regional impact are in compliance with their reporting requirements, the development order as it relates to their property may not be suspended by the local government. If no additional development pursuant to the development order has occurred since the submission of the previous report, then a letter from the developer stating that no development has occurred shall satisfy the requirement for a report. Development orders that require annual reports shall ~~may~~ be amended to require biennial reports the next time they are amended ~~at the option of the local government~~.

(19) SUBSTANTIAL DEVIATIONS.--

(a) Any proposed change to a previously approved development which creates an ~~a reasonable likelihood of~~ additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the proposed change ~~development~~ to be subject to

further development-of-regional-impact review. There are a variety of reasons why a developer may wish to propose changes to an approved development of regional impact, including changed market conditions. The procedures set forth in this subsection are for that purpose.

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall be presumed to create ~~constitute~~ a substantial deviation ~~and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government~~:

1. An increase in the number of parking spaces at an attraction or recreational facility by 10 ~~5~~ percent or 500 ~~300~~ spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 10 ~~5~~ percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

~~3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.~~

3.~~4.~~ An increase in industrial development area by 10 ~~5~~ percent or 64 ~~32~~ acres, whichever is greater.

4.~~5.~~ An increase in the average annual acreage mined by 10 ~~5~~ percent or 20 ~~10~~ acres, whichever is greater, or an increase

in the average daily water consumption by a mining operation by 10 ~~5~~ percent or 600,000 ~~300,000~~ gallons, whichever is greater. An increase in the size of the mine by 10 ~~5~~ percent or 1,000 ~~750~~ acres, whichever is less. An increase in the size of a heavy mineral mine as defined in s. 378.403(7) will only constitute a substantial deviation if the average annual acreage mined is more than 500 acres and consumes more than 3 million gallons of water per day.

5.~~6.~~ An increase in land area for office development by 10 ~~5~~ percent or an increase of gross floor area of office development by 10 ~~5~~ percent or 100,000 ~~60,000~~ gross square feet, whichever is greater.

6. An increase of development at a marina of 10 percent of wet storage or for 30 watercraft slips, whichever is greater, or 20 percent of wet storage or 60 watercraft slips in an area identified by a local government in a boat facility siting plan as an appropriate site for additional marina development, whichever is greater.

~~7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.~~

~~8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.~~

7.~~9.~~ An increase in the number of dwelling units by 10 ~~5~~

percent or 100 ~~50~~ dwelling units, whichever is greater.

8.~~10.~~ An increase in commercial development by 100,000 ~~50,000~~ square feet of gross floor area or of parking spaces provided for customers for 600 ~~300~~ cars or a 10-percent ~~5-percent~~ increase of either of these, whichever is greater.

9.~~11.~~ An increase in hotel or motel rooms ~~facility units~~ by 10 ~~5~~ percent or 100 rooms ~~75 units~~, whichever is greater.

10.~~12.~~ An increase in a recreational vehicle park area by 10 ~~5~~ percent or 100 vehicle spaces, whichever is less.

11.~~13.~~ A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

12.~~14.~~ A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 120 ~~100~~ percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 120 ~~100~~ percent has been reached or exceeded.

13.~~15.~~ A 20-percent ~~15-percent~~ increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review. If the transportation mitigation identified in the adopted development order is based upon proportionate-share payments, an increase in the proportionate-share payment commensurate with the increase in external vehicle trips generated by the development is adequate to satisfy the obligation of the developer to rebut the presumption.

14.~~16.~~ Any change that ~~which~~ would result in development

of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The further science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment is not a substantial deviation ~~shall be considered under sub-subparagraph (e)5.b~~.

The substantial deviation numerical standards in subparagraphs 3., 5., 8., 9., 12., and 13. ~~4., 6., 10., 14.~~, excluding residential uses, ~~and 15.,~~ are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 5., 7., 8., 9., 12., and 13. ~~4., 6., 9., 10., 11., and 14.~~ are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(c) An extension of the date of buildout of a development, or any phase thereof, by more than 10 ~~7 or more~~ years shall be presumed to create a substantial deviation subject to further

development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of 5 years or more but less than 7 years shall be presumed not to create a substantial deviation. The extension of the date of buildout of an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial deviation. This presumption ~~These presumptions~~ may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of 7 years or less ~~than 5 years~~ is not a substantial deviation. For the purpose of calculating when a buildout or~~,~~ phase~~, or termination~~ date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the buildout date ~~the termination date of the development order, the expiration date of the development of regional impact~~, and the phases thereof by a like period of time.

(d) A change in the plan of development of an approved development of regional impact resulting from requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency shall be submitted to the local government pursuant to this subsection. These changes do ~~The change shall be presumed~~ not ~~to~~ create a substantial deviation subject to further development-of-regional-impact review. In addition, if a change to a permit involving property within the development of

regional impact is approved by the agencies with jurisdiction, the change does not create a substantial deviation. ~~The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.~~

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-14. ~~(b)1.-15.~~ and does not exceed any other criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 7 ~~5~~ years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback that do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads that do

not affect external access points.

e. Changes to the building design or orientation that stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, provided that no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, provided that there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency~~, provided that these changes do not create additional regional impacts~~.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes to internal utility locations.

k. Changes to the internal location of public facilities.

l.~~j.~~ Any other change which the state land planning agency agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-k. ~~a.-i.~~ and which does not create the likelihood of any additional regional impact.

This subsection does not require a development order amendment for any change listed in sub-subparagraphs a.-l. but shall require notice to the state land planning agency, the regional

planning agency, and the local government. In addition, a memorandum of that notice shall be filed with the clerk of the circuit court along with a legal description of the affected development of regional impact. If a subsequent change requiring a substantial deviation determination is made to the development of regional impact, modifications to the development of regional impact made in all prior notices must be reflected as amendments to the development memorandum. ~~a.-j. unless such issue is addressed either in the existing development order or in the application for development approval, but, in the case of the application, only if, and in the manner in which, the application is incorporated in the development order.~~

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development shall include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and

convincing evidence.

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Except for the types of uses listed in subparagraph (b)14. ~~(b)16.~~, any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.

c. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c), (d), (f), and (g) and residential use.

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed

change.

3. No sooner than 15 ~~30~~ days but no later than 30 ~~45~~ days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 60 ~~90~~ days after submittal of the proposed changes, unless that time is extended by the developer.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 30 ~~45~~ days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer.

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and subparagraph (e)3. shall be applicable in determining whether further development-of-regional-impact review is required.

6. If the local government determines that the proposed

change does not require further development-of-regional-impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4. The state land planning agency may not appeal a change to a development order made pursuant to subparagraph (e)1. or subparagraph (e)2. ~~for developments of regional impact approved after January 1, 1980, unless the change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.~~

(g) If a proposed change requires further development-of-regional-impact review pursuant to this section, the review shall be conducted subject to the following additional conditions:

1. The development-of-regional-impact review conducted by the appropriate regional planning agency shall address only those issues raised by the proposed change except as provided in subparagraph 2.

2. The regional planning agency shall consider, and the

local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.

3. If the local government determines that the proposed change~~, as it relates to the entire development,~~ should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change and require mitigation only for the impacts of the proposed charge.

4. Development within the previously approved development of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not directly affected by the proposed change.

(h) When further development-of-regional-impact review is required because a substantial deviation has been determined or admitted by the developer, the amendment to the development order issued by the local government shall be consistent with the requirements of subsection (15) and shall be subject to the hearing and appeal provisions of s. 380.07. The state land planning agency or the appropriate regional planning agency need not participate at the local hearing in order to appeal a local government development order issued pursuant to this paragraph.

(24) STATUTORY EXEMPTIONS.--

(a) Any proposed hospital ~~which has a designed capacity of not more than 100 beds~~ is exempt from the provisions of this

section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section~~, except any steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a development of regional impact~~.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body prior to July 1, 1973, is exempt from the provisions of this section if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from the provisions of this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local government within which the facility is located of the increase at least 6 months prior to the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from the provisions of this section, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction of the sports

facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development of regional impact review, all previous expansions which were exempt under this paragraph shall be included in the development of regional impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects

listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section~~, if the facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or is consistent with a comprehensive port master plan that is in compliance with s. 163.3178~~.

(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.

(k)~~1.~~ Any ~~waterport or~~ marina development is exempt from the provisions of this section if the relevant county or municipality has adopted a boating facility siting plan or policy, which includes applicable criteria, considering such factors as natural resources, manatee protection needs, and recreation and economic demands ~~as generally outlined in the Bureau of Protected Species Management Boat Facility Siting Guide, dated August 2000~~, into the coastal management or land use element of its comprehensive plan. The adoption of boating facility siting plans or policies into the comprehensive plan is exempt from the provisions of s. 163.3187(1). Any ~~waterport or~~ marina development within the municipalities or counties with boating facility siting plans or policies that meet the above criteria, adopted prior to April 1, 2006 ~~2002~~, are exempt from

the provisions of this section, when their boating facility siting plan or policy is adopted as part of the relevant local government's comprehensive plan.

~~2. Within 6 months of the effective date of this law, the Department of Community Affairs, in conjunction with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, shall provide technical assistance and guidelines, including model plans, policies and criteria to local governments for the development of their siting plans.~~

(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary and has entered into a binding agreement with contiguous ~~adjacent~~ jurisdictions and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16). If the binding agreement is not entered into within 12 months after the establishment of the urban service boundary, the Department of Transportation shall adopt within 90 days a reasonable impact-mitigation plan that is applicable in lieu of the binding agreement.

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a

binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(n) Any proposed development or redevelopment within an area designated as an urban infill and redevelopment area under s. 163.2517 is exempt from the provisions of this section ~~if the local government has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16)~~.

(o) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

(p) Any self-storage warehousing that does not allow retail or other services is exempt from the provisions of this section.

(q) Any proposed nursing home or assisted living facility is exempt from the provisions of this section.

(r) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(k) is exempt from the provisions of this section.

(s) Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from the provisions of this section.

(t) Any development in a specific area plan which is

prepared pursuant to s. 163.3245 and adopted into the comprehensive plan is exempt from the provisions of this section.

(u) Any development in an area granted an exception from the concurrency requirements for transportation facilities which has met the requirements of s. 163.3180(5)(b)-(g), including the requirement for proportionate fair-share mitigation for transportation facilities, and which has been adopted into the comprehensive plan is exempt from the provisions of this section.

If a use is exempt from review as a development of regional impact under subparagraphs (a)-(u) but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project.

Section 2. Subsections (3) and (4) of section 380.0651, Florida Statutes, are amended to read:

380.0651 Statewide guidelines and standards.--

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

(a) Airports.--

1. Any of the following airport construction projects shall be a development of regional impact unless exempt under s. 380.06(24):

a. A new commercial service or general aviation airport

with paved runways.

b. A new commercial service or general aviation paved runway.

c. A new passenger terminal facility.

2. Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport shall not be a development of regional impact.

3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity is not a development of regional impact. Notwithstanding subparagraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.

~~(b) Attractions and recreation facilities.--Any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility, the construction or expansion of which:~~

~~1. For single performance facilities:~~

~~a. Provides parking spaces for more than 2,500 cars; or~~

~~b. Provides more than 10,000 permanent seats for spectators.~~

~~2. For serial performance facilities:~~

~~a. Provides parking spaces for more than 1,000 cars; or~~

~~b. Provides more than 4,000 permanent seats for spectators.~~

~~For purposes of this subsection, "serial performance facilities" means those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.~~

~~3. For multiscreen movie theaters of at least 8 screens and 2,500 seats:~~

~~a. Provides parking spaces for more than 1,500 cars; or~~

~~b. Provides more than 6,000 permanent seats for spectators.~~

(b) ~~(c)~~ Industrial plants, industrial parks, and distribution, warehousing or wholesaling facilities.--Any proposed industrial, manufacturing, or processing plant, or distribution, warehousing, or wholesaling facility, excluding wholesaling developments which deal primarily with the general public onsite, under common ownership, or any proposed industrial, manufacturing, or processing activity or distribution, warehousing, or wholesaling activity, excluding wholesaling activities which deal primarily with the general public onsite, which:

1. Provides parking for more than 2,500 motor vehicles; or

2. Occupies a site greater than 320 acres.

(c) ~~(d)~~ Office development.--Any proposed office building

or park operated under common ownership, development plan, or management that:

1. Encompasses 300,000 or more square feet of gross floor area; or

2. Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan ~~and in the strategic regional policy plan~~.

(d) ~~(e)~~ Marinas ~~Port facilities~~.--The proposed construction of any ~~waterport or~~ marina is required to undergo development-of-regional-impact review if it is~~, except one~~ designed for:

1.a. The wet storage or mooring of more ~~fewer~~ than 150 watercraft used ~~exclusively~~ for sport, pleasure, or commercial fishing~~;~~ ~~,~~ or

~~b. The dry storage of fewer than 200 watercraft used exclusively for sport, pleasure, or commercial fishing, or~~

b. ~~c.~~ The wet ~~or dry~~ storage or mooring of more ~~fewer~~ than 150 watercraft on or adjacent to an inland freshwater lake except Lake Okeechobee or any lake that ~~which~~ has been designated an Outstanding Florida Water.~~, or~~

~~d. The wet or dry storage or mooring of fewer than 50 watercraft of 40 feet in length or less of any type or purpose.~~

2. The subthreshold exceptions to this paragraph's requirements for development-of-regional-impact review do ~~shall~~ not apply to any ~~waterport or~~ marina facility located within or which serves physical development located within a coastal barrier resource unit on an unbridged barrier island designated

pursuant to 16 U.S.C. s. 3501.

In addition to the foregoing, for projects for which no environmental resource permit or sovereign submerged land lease is required, the Department of Environmental Protection must determine in writing that a proposed marina in excess of 75 ~~10~~ slips or storage spaces or a combination of the two is located so that it will not adversely impact Outstanding Florida Waters or Class II waters and will not contribute boat traffic in a manner that will have an adverse impact on an area known to be, or likely to be, frequented by manatees. If the Department of Environmental Protection fails to issue its determination within 45 days after ~~of~~ receipt of a formal written request, it has waived its authority to make such determination. The Department of Environmental Protection determination shall constitute final agency action pursuant to chapter 120.

~~2. The dry storage of fewer than 300 watercraft used exclusively for sport, pleasure, or commercial fishing at a marina constructed and in operation prior to July 1, 1985.~~

~~3. Any proposed marina development with both wet and dry mooring or storage used exclusively for sport, pleasure, or commercial fishing, where the sum of percentages of the applicable wet and dry mooring or storage thresholds equals 100 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development of regional impact review under sub-subparagraphs 1.a. and b. and subparagraph 2.~~

(e) ~~(f)~~ Retail and service development.--Any proposed

retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite, operated under one common property ownership, development plan, or management that:

1. Encompasses more than 400,000 square feet of gross area; or

2. Provides parking spaces for more than 2,500 cars.

(f) ~~(g)~~ Hotel or motel development.--

1. Any proposed hotel or motel development that is planned to create or accommodate 350 or more units; or

2. Any proposed hotel or motel development that is planned to create or accommodate 750 or more units, in a county with a population greater than 500,000, and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and in the strategic regional policy plan.

(g) ~~(h)~~ Recreational vehicle development.--Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.

(h) ~~(i)~~ Multiuse development.--Any proposed development with two or more land uses where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 145 percent. Any proposed development with three or more land uses, one of which is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is greater, where the sum of the percentages of the appropriate

thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 160 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(i) ~~(j)~~ Residential development.--No rule may be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 or less miles of the less populated adjacent county.

~~(k) Schools.--~~

~~1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.~~

~~2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In career centers or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.~~

~~3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the university board of trustees pursuant to s. 1013.30.~~

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(a) The criteria of two of the following subparagraphs must be met in order for the state land planning agency to determine that there is a unified plan of development:

1.a. The same person has retained or shared control of the developments;

b. The same person has ownership or a significant legal or equitable interest in the developments; or

c. There is common management of the developments controlling the form of physical development or disposition of parcels of the development.

2. There is a reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.

3. A master plan or series of plans or drawings exists covering the developments sought to be aggregated which have been submitted to a local general-purpose government, water management district, the Florida Department of Environmental Protection, or the Division of Florida Land Sales, Condominiums,

and Mobile Homes for authorization to commence development. The existence or implementation of a utility's master utility plan required by the Public Service Commission or general-purpose local government or a master drainage plan shall not be the sole determinant of the existence of a master plan.

4. The voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated, except that which was implemented because it was required by a local general-purpose government; water management district; the Department of Environmental Protection; the Division of Florida Land Sales, Condominiums, and Mobile Homes; or the Public Service Commission.

5. There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.

(b) The following activities or circumstances shall not be considered in determining whether to aggregate two or more developments:

1. Activities undertaken leading to the adoption or amendment of any comprehensive plan element described in part II of chapter 163.

2. The sale of unimproved parcels of land, where the seller does not retain significant control of the future development of the parcels.

3. The fact that the same lender has a financial interest, including one acquired through foreclosure, in two or more parcels, so long as the lender is not an active participant in the planning, management, or development of the parcels in which

it has an interest.

4. Drainage improvements that are not designed to accommodate the types of development listed in the guidelines and standards contained in or adopted pursuant to this chapter or which are not designed specifically to accommodate the developments sought to be aggregated.

(c) Aggregation is not applicable when the following circumstances and provisions of this chapter are applicable:

1. Developments that ~~which~~ are otherwise subject to aggregation with a development of regional impact that ~~which~~ has received approval through the issuance of a final development order may ~~shall~~ not be aggregated with the approved development of regional impact. However, ~~nothing contained in~~ this subparagraph does not ~~shall~~ preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact and, if so, the impacts of the independent developments of regional impact may not be considered cumulatively.

2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a development order pursuant to s. 380.06.

3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the

impacts resulting from the vested portions of the development.

4. The developments sought to be aggregated were authorized to commence development prior to September 1, 1988, and could not have been required to be aggregated under the law existing prior to that date.

(d) The provisions of this subsection shall be applied prospectively from September 1, 1988. Written decisions, agreements, and binding letters of interpretation made or issued by the state land planning agency prior to July 1, 1988, shall not be affected by this subsection.

(e) In order to encourage developers to design, finance, donate, or build infrastructure, public facilities, or services, the state land planning agency may enter into binding agreements with two or more developers providing that the joint planning, sharing, or use of specified public infrastructure, facilities, or services by the developers shall not be considered in any subsequent determination of whether a unified plan of development exists for their developments. Such binding agreements may authorize the developers to pool impact fees or impact-fee credits, or to enter into front-end agreements, or other financing arrangements by which they collectively agree to design, finance, donate, or build such public infrastructure, facilities, or services. Such agreements shall be conditioned upon a subsequent determination by the appropriate local government of consistency with the approved local government comprehensive plan and land development regulations. Additionally, the developers must demonstrate that the provision and sharing of public infrastructure, facilities, or services is

in the public interest and not merely for the benefit of the developments which are the subject of the agreement. Developments that are the subject of an agreement pursuant to this paragraph shall be aggregated if the state land planning agency determines that sufficient aggregation factors are present to require aggregation without considering the design features, financial arrangements, donations, or construction that are specified in and required by the agreement.

(f) The state land planning agency has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.

Section 3. Subsection (7) is added to section 380.07, Florida Statutes, to read:

380.07 Florida Land and Water Adjudicatory Commission.--

(7) Notwithstanding any other provision of law, s. 163.3215 is the sole mechanism for challenging the consistency of a development order issued under this chapter with the local government comprehensive plan. The Department of Community Affairs has standing to initiate an action under s. 163.3215 to determine the consistency of a development-of-regional-impact development order with the local government comprehensive plan and for no other purpose.

Section 4. Section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards ~~chs. 2002-20 and 2002-296~~.--

(1) A change in a development-of-regional-impact guideline

and standard does not abridge ~~Nothing contained in this act abridges~~ or modify ~~modifies~~ any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact ~~on the effective date of this act~~. A development that has received a development-of-regional-impact development order pursuant to s. 380.06, but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651 ~~of this act~~, shall be governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall ~~may~~ be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed ~~abandoned pursuant to the process in s. 380.06(26)~~.

(2) A development with an application for development approval pending, ~~and determined sufficient~~ pursuant to s. 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the guidelines and standards ~~this act~~, or a notification of proposed

change pending on the effective date of a change to the guidelines and standards ~~this act~~, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of subsection (1).

(3) A landowner that has filed an application for a development-of-regional-impact review prior to the adoption of an optional sector plan pursuant to s. 163.3245 may elect to have the application reviewed pursuant to s. 380.06, comprehensive plan provisions in force prior to adoption of the sector plan, and any requested comprehensive plan amendments that accompany the application.

Section 5. Subsection (12) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.--

(12) When authorized by a local comprehensive plan, a multiuse development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

(a) The development of regional impact meets or exceeds the guidelines and standards of s. 380.0651(3)(h) ~~s. 380.0651(3)(i)~~ and rule 28-24.032(2), Florida Administrative Code, and includes a residential component that contains at least 100 residential dwelling units or 15 percent of the

applicable residential guideline and standard, whichever is greater;

(b) The development of regional impact contains an integrated mix of land uses and is designed to encourage pedestrian or other nonautomotive modes of transportation;

(c) The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more required improvements that will benefit a regionally significant transportation facility;

(d) The owner and developer of the development of regional impact pays or assures payment of the proportionate-share contribution; and

(e) If the regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local government with jurisdiction over the development of regional impact, the developer is required to enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of the facility.

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a

stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost" includes all associated costs of the improvement.

Section 6. Subsection (21) of section 331.303, Florida Statutes, is amended to read:

331.303 Definitions.--

(21) "Spaceport launch facilities" shall be defined as industrial facilities in accordance with s. 380.0651(3)(b) ~~s. 380.0651(3)(c)~~ and include any launch pad, launch control center, and fixed launch-support equipment.

Section 7. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 703 Municipal Annexation
SPONSOR(S): Justice and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2) Growth Management Committee			
3) Agriculture & Environment Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 703 amends the statutory involuntary annexation procedure by excluding state-owned land from provisions which requires the consent of greater than 50 percent of owners where more than 70 percent of the property in an area proposed for annexation is owned by individuals, corporations or legal entities which are not registered electors. Thus, the consent of the Board of Trustees of the Internal Improvement Trust (the Governor and Cabinet) would not be required with regard to the annexation of any state-owned land.

The fiscal impact of the bill is indeterminate. While the state is immune from taxation, it could experience higher costs associated with certain services (e.g., utilities) depending on whether its property remains unincorporated territory or is included within a municipality.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty

If the state is not considered in the consent process for involuntary annexations, private owners of the unincorporated areas under consideration will have more control over the annexation of their property.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Constitutional/Statutory Provisions Relating to Annexation[1]

Section 2 (c), Art. VIII of the State Constitution provides that "[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law." This provision authorizes the Legislature to annex unincorporated property into a municipality by special act. It also authorizes the Legislature to establish procedures in general law for the annexation of property.

The Legislature established local annexation procedures by general law in 1974, with the enactment of ch. 171, F. S., the "Municipal Annexation or Contraction Act." This act describes the way in which property may be annexed or de-annexed by cities without legislative action. The purpose of the act is to set forth procedures for adjusting the boundaries of municipalities through annexations or contractions of corporate limits, and criteria for determining when annexations or contractions may take place so as to:

- ensure sound urban development and accommodation to growth;
- establish uniform legislative standards throughout the state for the adjustment of municipal boundaries;
- ensure the efficient provision of urban services to areas that become urban in character; and
- ensure that areas are not annexed unless municipal services can be provided to those areas.

Statutory Requirements for Annexation

Before local annexation procedures may begin, pursuant to s. 171.042, F.S., the governing body of the municipality must prepare a report containing plans for providing urban services to any area to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, plans for extending municipal services, timetables and financing methodologies. It must certify that the area proposed to be annexed is appropriate for annexation because it meets the following standards and requirements described by s. 171.043, F.S.:

[1] The term "annexation" is defined in the Florida Statutes to mean "the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality." See, s. 171.031(1), F.S. For an annexation to be valid under ch. 171, F. S., the annexation must take place within the boundaries of a single county. See, s. 171.045, F.S.

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality.[2]
- The area to be annexed must be reasonably compact.[3]
- No part of the area to be annexed may fall within the boundary of another incorporated municipality.
- Part or all of the land to be annexed must be developed for urban purposes.[4]
- Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area, or provide a necessary bridge between two urban areas for the extension of municipal services.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal contractions, the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value and the manner of transfer and financing.[5]

Types of Annexations

Voluntary Annexation

If the property owners of a reasonably compact, unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. Section 171.044 (4), F. S., provides that the procedures for voluntary annexation are "supplemental to any other procedure provided by general law or special law." The following process governs voluntary annexations in every county, except for those counties with charters providing an exclusive method for municipal annexation:

- submission of a petition—signed by all property owners in the area proposed to be annexed—to the municipal governing body; and
- adoption of an ordinance by the governing body of the municipality to annex the property after publication of a notice—which sets forth the proposed ordinance in full—at least once a week for two consecutive weeks.

The governing body of the municipality also must provide a copy of the notice to the board of county commissioners of the county where the municipality is located.

In addition, the annexation must not create enclaves. An enclave is: (a) any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.[6]

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[2] This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. There are specified exceptions for cases in which an area is separated from the city's boundary by a publicly owned county park, right-of-way or body of water.

[3] Section 171.031(12), F.S., defines "compactness" as concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in any county in the state is required to be designed in such a manner as to ensure that the area will be reasonably compact.

[4] An area developed for urban purposes is defined as an area which meets any one of the following standards: (a) a total resident population equal to at least two persons per acre; (b) a total resident population equal to at least one person per acre, with at least 60 percent of subdivided lots one acre or less; or (c) at least 60 percent of the total lots used for urban purposes, with at least 60 percent of the total urban residential acreage divided into lots of five acres or less.

[5] See, s. 171.061, F.S.

[6] Section 171.031(13), F.S.

Involuntary Annexation

A municipality may annex property where the property owners have not petitioned for annexation pursuant to s. 171.0413, F. S. This process is referred to as "involuntary" annexation. In general, the requirements for an involuntary annexation are:

- the adoption of an annexation ordinance by the annexing municipality's governing body;
- at least two advertised public hearings held by the governing body of the municipality prior to the adoption of the ordinance, with the first hearing on a weekday at least seven days after the first advertisement and the second hearing held on a weekday at least five days after the first advertisement; [7] and
- submission of the ordinance to a vote of the registered electors of the area proposed for annexation once the governing body has adopted the ordinance.[8]

Any parcel of land which is owned by one individual, corporation or legal entity, or owned collectively by one or more individuals, corporations or legal entities, proposed to be annexed can not be severed, separated, divided or partitioned by the provisions of the ordinance, unless the owner of such property waives this requirement.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes part of the city. If there is no majority vote, the area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations or legal entities which are not registered electors of such area, the area can not be annexed unless the owners of more than 50 percent of the land in such area consent to the annexation. This consent must be obtained by the parties proposing the annexation prior to the referendum.

If the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. The area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality, then the property owner consents must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance.

Effect of Annexation on an Area

Upon the effective date of an annexation, the area becomes subject to all laws, ordinances and regulations in force in the annexing municipality. An exception occurs pursuant to s. 171.062(2), F.S., in that if the area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in effect until the municipality adopts a comprehensive plan amendment that includes the annexed area. In contractions, excluded territory is immediately subject to county laws, ordinances and regulations.

Any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.[9]

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[7] This new requirement was passed by the 1999 Legislature.

[8] In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality.

[9] Section 171.091, F.S.

Appeal of Annexation or Contraction

Affected persons who believe they will suffer material injury because of the failure of a city to comply with annexation or contraction laws as applied to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court's review by certiorari. If an appeal is won, the petitioner is entitled to reasonable costs and attorney's fees.[10]

State-Owned Land

Chapter 253, F.S., is entitled "State Lands." Section 253.001, F.S., establishes that pursuant to the provisions of s. 7, Art. II, and s. 11, Art. X of the State Constitution, all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund are held in trust for the use and benefit of the people of the state of Florida.

The Governor and the Cabinet sit as the Board of Trustees of the Internal Improvement Trust Fund. Pursuant to s. 253.03, F.S., the Board is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection and disposition of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions, excluding certain properties. The Division of State Lands of the Department of Environmental Protection performs staff duties and functions related to the acquisition, administration and disposition of those lands in which title is vested in the Board. See, s. 253.002(1), F.S

EFFECT OF PROPOSED CHANGES

HB 703 amends the involuntary annexation procedure contained in s. 171.0413, F.S., by excluding state-owned land from the consent processes provided in that section. Thus, it prevents the Board of Trustees of the Internal Improvement Trust Fund from participating in these annexation decisions.

In some instances, the Board currently does not have the ability to participate in annexation decisions regarding land that it owns as it is not a registered elector who can vote on a proposed ordinance. However, pursuant to s. 171.0413(5), F.S., if more than 70 percent of an area proposed to be annexed is owned by entities which are not registered electors of the area, a requirement is triggered which calls for the consent of the owners of more than 50 percent of the land in such area prior to the referendum. This provision allows the Board to participate in the decision making process in instances where it is a land owner in an area proposed for annexation. Section 171.0413(6), F.S., also allows the Board to take part in the decision-making process if the area proposed for annexation has no registered electors by requiring consent from the owners of more than 50 percent of the parcels of land in the area.

The Department of Environmental Protection has indicated that generally the Board is in favor of annexation of state land. In instances where the state owns over 50 percent of the land in an area proposed for involuntary annexation under s. 171.0413, F.S., the state's consent assures annexation without regard to the wishes of other landowners. The bill addresses this potential outcome by removing the Board from the consent equation. Under the bill's provisions, these types of annexations would be decided by landowners other than the state.

C. SECTION DIRECTORY:

Section 1: Amends s. 171.0413, F.S., to exclude state-owned land from an annexation procedure.

Section 2: Provides an effective date.

[10] Section 171.081, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

While the state is immune from taxation, it could experience higher costs associated with certain services (e.g., utilities) depending on whether its property remains unincorporated territory or is included within a municipality.

1. Revenues:

Unknown.

2. Expenditures:

Unknown.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

C. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

A representative of The Florida Department of Environmental Regulation has indicated that, as a matter of policy, the agency opposes this bill. The Board of Trustees represents the citizens of the state of Florida, and this bill would essentially eliminate their right to weight in on these issues. [11]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[11] Telephone conversation with Ryder Rudd, Legislative Affairs, March 2, 2006.

A bill to be entitled

An act relating to municipal annexation; amending s. 171.0413, F.S.; excluding state-owned land from certain municipal annexation procedures; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 171.0413, Florida Statutes, is amended to read:

171.0413 Annexation procedures.--Any municipality may annex contiguous, compact, unincorporated territory in the following manner:

(5) If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations, or legal entities which are not registered electors of such area, such area shall not be annexed unless the owners of more than 50 percent of the land in such area, excluding state-owned land, consent to such annexation. Such consent shall be obtained by the parties proposing the annexation prior to the referendum to be held on the annexation.

Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 757 Polk County
SPONSOR(S): Stargel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson APN	Hamby TJH
2) Governmental Operations Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 757 amends ch. 88-443, L.O.F., as amended, which created a personnel system for the Polk County Sheriff's Office. The bill changes references to positions excluded from this system to reflect a reorganization of titles within the Office. The bill also removes intent language from the act which attempts to restrict collective bargaining rights for deputy sheriffs. This is in response to a 2003 determination by the Florida Supreme Court that deputy sheriffs are "employees" for purposes of the constitutional right to collectively bargain.

Additionally, the bill adjusts the commencement of the two-year terms of personnel board members from the second Tuesday of January, to the same day in February; reduces the term of the chairman of the board from two years to one year; revises the effective date of the initial probationary period for employees; and makes minor technical changes to language in the special act.

According to the Economic Impact Statement, no fiscal effects are anticipated as a result of the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

In 1988, the Legislature authorized a personnel system for deputies, employees and members of the Sheriff's Office of Polk County (ch. 88-443, L.O.F.). This "classified service" includes all certified deputy sheriffs, certified detention deputies and noncertified support staff, and specifically excludes the sheriff, the undersheriff, colonels, directors, legal advisors, personnel holding the rank of major or above or equivalent noncertified support positions, contract personnel, nonsalaried personnel, any special deputy sheriff appointed pursuant to s. 30.09(4), F.S.,[1] members of the Mounted Enforcement Unit, or Auxiliary or Reserve Unit, or any person appointed as a part-time employee. Eligible employees become members of the classified service after serving at least one year probationary service, and appointments take effect upon the date the person appointed reports to duty. Currently, no employees within the Polk County Sheriff's Office are represented by a collective bargaining agent.[2]

The Sheriff is authorized to appoint a five-member personnel board to hear appeals and complaints and to make recommendations regarding the same. To ensure continuity, board members are appointed by the Sheriff to two-year terms on an alternating schedule effective the second Tuesday of January. The Human Resources Administrator serves as secretary to the board, and as an ex officio member. Board members elect one member to serve as their chair for a two-year period.

A three-person Members Nominating Committee nominates candidates for appointment to the board. These individuals are elected from each department of the Sheriff's Office by classified service members, and also serve two-year terms.

Effect of Proposed Changes

HB 757 amends ch. 88-443, L.O.F., as amended, relating to the classified service of the Polk County Sheriff's Office, and changes references to positions excluded from this system (from the "undersheriff" and "colonels" to the "chief of staff," "chief of detention," "chief of law enforcement," "chief of criminal investigations," and "executive director of the Office of Business Affairs") to reflect a reorganization of titles within the Office. This language refers to the same individuals and, thus, has no impact.

The bill also removes intent provisions from the act which attempt to restrict collective bargaining rights for deputy sheriffs. This deletion is in reaction to a 2003 Florida Supreme Court decision[3] which held

that deputy sheriffs were "employees" for purposes of the constitutional right to collectively bargain.[4]

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[1] This section applies to those special deputy sheriffs appointed: (a) to attend elections on election days; (b) to perform undercover investigative work; (c) for specific guard or police duties in connection with public sporting or entertainment events, not to exceed 30 days; or for watch or guard duties, when serving in such capacity at specified locations or areas only; (d) for special and temporary duties, without power of arrest, in connection with guarding or transporting prisoners; (e) to aid in preserving law and order, or to give necessary assistance in the event of any threatened or actual hurricane, fire, flood or other natural disaster, or in the event of any major tragedy such as an act of local terrorism or a national terrorism alert, an airplane crash, a train or automobile wreck or a similar accident; (f) to raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff or an authorized general deputy; and (g) to serve as certain parking enforcement specialists.

[2] Telephone conversation with Scott Wilder, Director of Communications, Polk County Sheriff's Office, February 14, 2006.

[3] Coastal Florida Police Benevolent Association, Inc, v. Williams, 838 So.2d 543 (Fla. 2003).

The bill adjusts the commencement of the two-year terms of personnel board members from the second Tuesday of January, to the same day in February, in order to accommodate the demanding schedule in the Sheriff's Office during the month of January each year. The bill also reduces the term of the chairman of the board from two years to one year in order to allow more opportunities for service in this position. Additionally, the bill revises the effective date of the initial probationary period for employees from the time that an individual reports to duty to when an individual successfully completes all entry level training. This change reflects current practice. The Sheriff's Office often hires non-certified or non-sworn civilians who then attend the law enforcement or corrections academy—i.e., "entry level training." These individuals are paid while in training. Once they successfully complete the academy, they are appointed as deputy sheriffs or detention deputy sheriffs, and begin a one-year probationary period.[5]

The bill also makes minor technical changes to language in the special act.

C. SECTION DIRECTORY:

Section 1: Amends ch. 88-443, L.O.F., as amended by ch. 98-516, L.0.F., as follows:

Section 1: Provides for use of current titles for positions excluded from the classified service. Deletes intent language.

Section 2: Provides clarifying language. Changes the name of the Human Resources Section to the Human Resources Division. Changes the title of the ranking officer of the Division.

Section 3: Changes the effective date of personnel board members' terms.

Section 5: Changes the term of the board chair.

Section 8: Removes unnecessary language.

Section 9: Specifies that the Members Nominating Committee shall be elected from a certain office and two departments.

Section 11: Corrects obsolete description.

Section 12: Corrects obsolete description.

Section 13: Provides for the initial probationary period.

Section 14: Provides clarifying language.

Section 15: Provides clarifying language.

Section 16: Provides clarifying language.

Section 17: Provides clarifying language.

Section 2: Provides an effective date.

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[4] Section 6, Art. I of the State Constitution provides: "Right to work.—The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike."

[5] Polk County Sheriff's Office General Order 22.10, 12. (f) 2): "Members (deputy sheriff and detention deputy) shall be classified as probationary for a period of twelve (12) months commencing upon the date they take their Oath of Office. [FCAC 4.04]." FCAC refers to the Florida Corrections Accreditation Commission; 4.04 means that this general order complies with standard 4.04.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? December 19, 2005.

WHERE? *The Polk County Democrat*, a semi-weekly newspaper published in Polk County.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

According to the Economic Impact Statement, no fiscal effects are anticipated as a result of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

See, **Effect of Proposed Changes** section re: s. 6, Art. I of the State Constitution.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Line 77 provides new language which could be interpreted to mean that a member's conflict could be attributed to an alternate's business affairs. The sponsor may wish to consider an amendment which retains current language.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

AFFIDAVIT OF PUBLICATION

The Polk County Democrat

Published Semi-Weekly
Bartow, Polk County, Florida

Case No.
STATE OF FLORIDA

COUNTY OF POLK:

Before the undersigned authority personally appeared Shirley J. Whitaker, who on oath says that he or she is Classified Manager of The Polk County Democrat, a newspaper published at Bartow in Polk County, Florida; that the attached copy of advertisement, being a Notice of Publication in the matter of 2006 session of the Florida Legislature amend chapter 88-443, was published in said newspaper in the issues of Dec. 19, 2005.

Affiant further says that The Polk County Democrat is a newspaper published at Bartow, in said Polk County, Florida, and that the said newspaper has heretofore been continuously published in said Polk County, Florida, each Monday and Thursday and has been entered as periodicals matter at the post office in Bartow, in said Polk County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Signed Shirley J. Whitaker

Sworn to and subscribed before me this 21st. day of Dec., 2005, by Shirley J. Whitaker, who is personally known to me.

Teresa M Crutchfield
(Signature of Notary Public)

Teresa M. Crutchfield
Notary Public

NOTICE OF PUBLICATION
TO WHOM IT MAY CONCERN

Notice is hereby given of intention to apply to the 2006 session of the Florida Legislature for passage of an act to amend chapter 88-443, Laws of Florida, to revise the existing legislation related to the classified service of the Polk County Sheriff's Office. The bill is an act relating to Polk County; amending chapter 88-443, Laws of Florida, as amended; excluding certain positions from the classified service of the Sheriff's Office of Polk County; removing legislative intent; revising names of units and titles of persons in the Sheriff's Office; revising terminology; revising the effective date of appointments to the personnel board; reducing the term of the chairperson of the board; specifying the office and departments from which members are elected to the Members Nominating Committee; revising the effective date of the initial probationary period; and providing an effective date.
Sheriff Grady Judd, 455 N. Broadway, Bartow, FL 33830.
Dec. 19, 2005-4004

4004

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 757

SPONSOR(S): Rep John K. Stargel

RELATING TO: Polk County Sheriff's Office
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Polk County

CONTACT PERSON: Rachel Barnes

PHONE # and E-Mail: (863) 413-2877 or (850) 488-2270 - rachel.barnes@myfloridahouse.gov

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: Dec. 14, 2005

Location: Neil Combee Admn. Bldg., 330 W. Church St., Bartow, FL.

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [Dec. 19, 2005 **]**

Where? Polk Co. Democrat **County** Polk County

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subject to the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

2/17/06

Delegation Chair *(Original Signature)* **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 757

SPONSOR(S): Representative John Stargel

RELATING TO: Polk County -- Sheriff's Office Civil Service Law

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 06-07	FY 07-08
Expenditures: None	∅	∅

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal: None	∅	∅
State: None		
Local: None		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues: None	∅	∅

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: None

Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

None

PHYLLIS P. RODDA
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION EXPIRES
#DD 476729
Bonded thru Notary Public Underwriters

PREPARED BY: Scott A. Wilder 2.15.06
[Must be signed by Preparer] Date

TITLE: Director of Communications

REPRESENTING: Polk County Sheriff's Office

PHONE: (863.534.6299)

E-Mail Address: swilder@polksheriff.org

A bill to be entitled

An act relating to Polk County; amending chapter 88-443, Laws of Florida, as amended; excluding certain positions from the classified service of the Sheriff's Office of Polk County; removing legislative intent; revising names of units and titles of persons in the Sheriff's Office; revising terminology; revising the effective date of appointments to the personnel board; reducing the term of the chairperson of the board; specifying the office and departments from which members are elected to the Members Nominating Committee; revising the effective date of the initial probationary period; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 88-443, Laws of Florida, as amended by chapter 98-516, Laws of Florida, is amended to read:

Section 1. The terms of this act shall apply to the classified service of the Polk County Sheriff's Office, which shall include all certified deputy sheriffs, certified detention deputies, and noncertified support staff of the Polk County Sheriff's Office. The provisions of this act shall not include the sheriff or chief of staff, chief of detention, chief of law enforcement, chief of criminal investigations, executive director of the Office of Business Affairs ~~under sheriff, colonels~~, directors, legal advisors, personnel holding the rank of major or above or equivalent noncertified support positions, contract personnel, nonsalaried personnel, any special deputy

sheriff appointed pursuant to s. 30.09(4)(b), Florida Statutes, members of the Mounted Enforcement Unit, ~~or~~ Auxiliary or Reserve Unit, or any person appointed as a part-time employee. ~~It is the intent of this act to authorize an advisory personnel system, to maintain the full powers of the Sheriff, and to continue to respect the legal limitations on the right of collective bargaining and other rights under part II of chapter 447, Florida Statues, and not to grant such rights to any deputy, member, or employee of the Polk County Sheriff's Office who, prior to the effective date of this act, did not otherwise have such rights pursuant to law.~~

Section 2. The Sheriff of Polk County is herby authorized to appoint a personnel board, hereafter referred to as the "board," to act as an advisory agency of and to the Sheriff, which board shall be composed of five members to be appointed as follows:

(1) Two members of the board shall be selected and appointed by the Sheriff.

(2) Two members of the board shall be appointed by the Sheriff after being elected in an election among members of the classified service from a group of three nominations chosen by a majority vote of a three-person committee known as the Members Nominating Committee representing the classified members of the Sheriff's Office as described in section 9. Each of three candidates nominated by the Members Nominating Committee shall possess qualifications for board membership as outlined in subsections (5) and (6).

(3) The fifth member shall be selected by the four appointed members of the board and shall be appointed by the Sheriff.

(4) All members shall be appointed by the Sheriff and shall also possess the qualifications for board membership outlined in subsections (5) and (6).

(5) No member appointed pursuant to subsection (1), subsection (2), or subsection (3), or that member's ~~his or her~~ alternate, may be:

(a) A member ~~An employee~~ of the Sheriff's Office or of any city or county of this state or of the State of Florida or the United States; or

(b) A member of any national, state, or county committee of a political party; or

(c) A candidate for, or incumbent of, any paid public office; or

(d) The spouse, parent or grandparent, child or grandchild, brother or sister, aunt or uncle, niece or nephew, by consanguinity or affinity, of a member of the classified service; or

(e) Situated so as to have a conflict of interest in the terms of the member's or alternate's ~~his or her~~ related business, duties, or responsibilities in connection with the board.

(6) All the members of the personnel board shall be at least 21 years of age; of good moral character; of good reputation in the community; citizens of the United States; permanent residents of Florida; and residents of Polk County for

at least 2 years prior to the date of appointment.

(7) Two alternates to the board shall be appointed by the Sheriff. In the event that a vacancy occurs in that a board member terminates or that a matter before the board involves a conflict of interest, the alternate member shall serve for the hearing or term of office as the case may be.

(8) The ranking officer in charge of the Human Resources Division ~~Section~~ shall be designated as the Human Resources Director ~~Administrator~~ and shall serve as secretary to the board and as an ex officio member of the board but shall have no vote.

Section 3. To ensure continuity, board members shall be appointed by the Sheriff to 2-year terms on an alternating schedule effective the second Tuesday of February ~~January~~. Two members shall be appointed during even numbered years, and three members shall be appointed during odd numbered years. Nothing contained herein shall prohibit board members from being reappointed by the Sheriff for additional terms.

Section 4. Members of the board shall receive no salary, but each shall be paid a monthly allowance, the amount to be determined by the Sheriff, for expenses incurred in performing the duties of the board.

Section 5. The board shall elect one member to serve as chairperson ~~the chair~~ for a 1-year period ~~2-year period~~. The chairperson ~~chair~~ shall perform such duties as are provided for by the board's rules.

Section 6. The Sheriff shall make available to the board a table of organization and a list of all employees and members, positions, and classes and the pay scale of each position and

class in the Sheriff's Office.

Section 7. The board shall have the following powers and duties:

(1) To adopt and amend rules and regulations for its hearing procedures subject to approval by the Sheriff.

(2) To hear appeals and complaints in matters provided for in this act and to make recommendations to the Sheriff regarding the same. Three members shall constitute a quorum for hearing an appeal and rendering a decision.

Section 8. The Sheriff shall have the authority to adopt such rules and regulations as are necessary for ~~the implementation and~~ administration of this act.

Section 9. There shall be a three-person Members Nominating Committee which shall nominate candidates for appointment to the board. All members of the committee shall be members of the classified service. One member shall be elected from the Office of Business Affairs, the Department of Law Enforcement, and the Department of Detention ~~each department~~ by secret vote of all members of the classified service within each respective office or department. Members of the committee shall serve a 2-year term of office beginning July 1.

Section 10. The Sheriff or the Sheriff's designee may create new positions within the Sheriff's Office or combine, alter, or abolish existing positions in such manner as the Sheriff deems necessary.

Section 11. The Human Resources Director ~~Administrator~~ shall give public notice of vacancies and of open competitive examinations for positions in the classified service. The Human

Resources Director ~~Administrator in the Sheriff's Office~~ shall establish and maintain such eligibility lists for the various job classes as are deemed necessary to meet the needs of the Sheriff's Office.

Section 12. ~~(1)~~ Whenever a vacancy occurs in any position in the classified service, the Sheriff or the Sheriff's designee shall make requisition to the Human Resources Director ~~Administrator~~ for the names and addresses of all persons eligible for appointment thereto. In the event that a candidate acceptable to the Sheriff or the Sheriff's designee is recommended, the Sheriff or the Sheriff's designee thereupon shall appoint this person to the position where the vacancy exists. The Sheriff or the Sheriff's designee shall immediately inform the Human Resources Director ~~Administrator~~ of such ~~his~~ action.

(1) ~~(2)~~ In the absence of an eligibility list, the Sheriff or the Sheriff's designee may, if either ~~he or she~~ determines that the necessity of adequate law enforcement or operational efficiency so requires, appoint a person without reference to an eligibility list to fill a vacant position on a provisional basis. The Sheriff or the Sheriff's designee shall immediately inform the Human Resources Director ~~Administrator~~ of such ~~his~~ action. Such provisional appointee shall be a person who lawfully could be appointed within the personnel system had the appointee ~~he or she~~ been an applicant. Such provisional appointee shall acquire no rights under the system by virtue of said appointment and said appointment shall terminate immediately when an eligible person from an eligibility list is

certified to and accepted by the Sheriff, or within 6 months from the date of the appointment, or 45 days after the establishment of an eligibility list, whichever is the shorter length of time. Acceptance or refusal or a provisional appointment shall not prejudice or in any way affect the standing of a person who is an applicant or who shall become an applicant for an established position.

(2) ~~(3)~~ In the event of an emergency, the Sheriff or the Sheriff's designee may appoint a person to fill a position not to exceed 3 calendar months during any 12-month period.

Section 13. No employee shall become a member of ~~appointment to any position in~~ the classified service ~~shall be deemed complete~~ until the expiration of a period of at least 1-year probationary service. During the initial probationary period, the Sheriff or the Sheriff's designee may terminate or otherwise discipline the employee ~~appointee~~ and the employee ~~appointee~~ shall not be eligible for a hearing before the board. The initial probationary period ~~Appointments~~ may be regarded as taking effect upon the date the employee successfully completes all entry-level training ~~person appointed reports for duty~~.

Section 14. Whenever a position in the classified service is filled by promotion, the employee ~~person~~ may be returned to duty in a position at the level formerly held ~~by him or her~~ in the classified service without a hearing during the employee's ~~his or her~~ promotion probationary period. The member may have the opportunity for a hearing if dismissed from the service or suspended for greater than 40 hours if the member ~~he or she~~ has completed an initial 1-year probationary period.

Section 15. It is not the intent of this act to modify the Sheriff's absolute control over the selection and retention of the Sheriff's deputies and of other members of the Sheriff's Office as provided for by the law. No dismissal, demotion, suspension, or reduction in pay shall be taken against any nonprobationary member of the classified service unless notice of the action and the reason therefor is given to the member verbally or in writing prior to the action taking effect. An opportunity to respond orally and in writing to the Sheriff or the Sheriff's designee ~~representative in the decisionmaking process~~ may be granted prior to the effective date of the action. Following issuance of the written notice of disciplinary action, the affected member of the classified service may seek a formal hearing for a review of dismissal, demotion, suspension of greater than 40 hours, or reduction in pay, provided that the member, as a condition to seeking a hearing, shall, upon receipt of the written notice, answer the same in writing and file the answer and a request with the Sheriff within 7 calendar days after the issuance of the notice. If a dismissal, demotion, suspension of greater than 40 hours, or reduction in pay is answered and a hearing is requested in writing within 7 calendar days, the member of the classified service may have an opportunity for a hearing before the board with all the rights and privileges afforded under section 16. In the case of a notice of dismissal, the member shall remain dismissed without pay pending the hearing and the final decision of the Sheriff. In the case of a notice of a demotion, suspension of greater than 40 hours, or reduction in pay, the disciplinary action

shall not be delayed pending the review process. The board shall report in writing its findings and recommendations to the Sheriff along with any mitigating circumstances noted for review and consideration by the Sheriff. The Sheriff shall retain the right of final determination. No member of the classified service may be reinstated, with or without backpay or benefits, without the concurrence of the Sheriff. For disciplinary purposes, the Sheriff or the Sheriff's designee may reprimand, orally or in writing, or summarily suspend a member of the classified service for a period not exceeding 40 hours, and such action shall not be subject to review and recommendation of the board.

Section 16. The practice and procedure of the board with respect to any hearing by the board authorized by this act shall be in accordance with the rules and regulations ~~to be~~ established by the board. Such rules shall provide for a reasonable notice of hearing to all persons affected by a recommendation to be made by the board, with the opportunity to be heard in <u>their</u> ~~his or her~~ behalf at a hearing to be held for that purpose and to examine and cross-examine witnesses.

(1) The board, when conducting any hearings authorized by this act, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. In the case of the disobedience or failure of any person to comply with a subpoena issued by the board or any of its members, or on the refusal of a witness to testify on any matter on which <u>the witness</u> ~~he or she~~ may be lawfully

interrogated, the judge of the circuit court of the county, on application of the board, shall compel the obedience by proceedings as for contempt. The service of a subpoena shall be made in the manner provided by the Florida Rules of Civil Procedure. Each witness subpoenaed by the board shall receive for the witness's ~~his or her~~ attendance, fees and mileage in the amount as provided for witnesses in civil cases, if requested.

(2) The board shall meet for the purpose of hearing the appeal promptly and no later than 30 days after receipt of the answer and request for hearing, unless good cause exists for, or the affected member agrees to, a postponement.

(3) The actions of the board and the Sheriff shall be exempt from the provisions of chapter 120, Florida Statutes.

Section 17. When a newly elected or appointed Sheriff assumes office, the service of all personnel shall continue without the necessity of formal reappointment. Notwithstanding any other provisions of this act, the incoming Sheriff shall have the option of maintaining the current personnel assigned to the rank of major and above or equivalent noncertified support positions or transferring those personnel as described below. If the incoming Sheriff fills any of the above positions with a new person and the current occupant of the above position is a certified law enforcement deputy ~~officer~~ or detention deputy, he or she shall be reduced to the rank of captain if certified, or to the equivalent noncertified support position if not certified immediately. The member's salary shall be reduced in compliance with the salary policy in effect at that time, but shall be no less than the salary the member would have attained had the

member remained in the highest classification accorded appeal rights under this act. Following the election or appointment of a Sheriff, appointments of all personnel remain at the pleasure of the Sheriff, and personnel in the classified service may be terminated by affirmative action of the Sheriff or the Sheriff's successor in office subject to the provisions of this act.

Section 18. If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end provisions of this act are declared severable.

Section 19. This act shall not be held or construed to create any property rights or any vested interest in any position in the classified service and the right is hereby reserved to repeal, alter, or amend this act or any provision thereof at any time.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 823 Local Government Infrastructure Surtax
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 2382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

Counties have authority to impose a limited number of discretionary sales surtaxes. To impose any of the surtaxes requires either a favorable referendum vote or, for some, an extraordinary vote of the governing body. The Local Government Infrastructure Surtax is one of the discretionary sales surtaxes.

With limited exceptions, all proceeds of the Local Government Infrastructure Surtax, and any interest accrued, are only allowed to be spent by the school district or within the county and municipalities in the county on local infrastructure needs. This bill requires that only a minimum of 50% of the proceeds or accruements be expended for local infrastructure purposes. The bill provides that up to 35% of the remaining proceeds and accruements may be used to reduce property taxes and up 15% may be used for operational expenses. The percentage used for operational expenses may not exceed the percentage used to reduce property taxes.

The bill provides that property taxes may not be increased for the first year or by more than 3% above the rollback rate during any subsequent years after a taxing authority elects to use proceeds to fund operational expenses.

This bill would take effect July 1, 2006.

The bill does not appear to have a fiscal impact on state government. The bill has no required fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes- This bill allows 35% of the proceeds and interest of the Local Government Infrastructure Surtax (surtax) to be used to reduce property taxes. The bill also allows up to 15% of such proceeds to be used for operational expenses. The bill prevents property taxes from increasing the first year after proceeds and interest of the surtax are used to fund operational expenses. After the first year, the increase is limited to 3% over the rollback rate for any subsequent years under the levy.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 212.055, F.S., authorizes counties to impose one or more of seven local discretionary sales surtaxes on all transactions occurring in the county which are subject to the state tax imposed on sales, use, services, rentals, and admissions.[1] The tax rate, duration of levy, method of imposition, and use of proceeds and accrued interest are set in statute and summarized below:

Local Discretionary Sales Surtaxes:	Authorized Levy (%):
Charter County Transient System	Up to 1%
Local Government Infrastructure Surtax	0.5% or 1%
Small County Surtax	0.5% or 1%
Indigent Care and Trauma Center Surtax	Up to 0.5%
County Public Hospital Surtax	0.5%
School Capital Outlay Surtax	Up to 0.5%
Voter-Approved Indigent Care Surtax	0.5% or 1%

Section 212.055, F.S., provides maximum combined tax rates for the different surtaxes imposed. The Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are maximized at a combined rate of 1%. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined maximum rate is 1.5%. The School Capital Outlay Surtax, capped at 0.5%, is not included in tax rate caps.

The Local Government Infrastructure Surtax (surtax) is authorized in s. 212.055(2)(d), F.S., upon enactment of an ordinance by a majority of the members of the county governing authority and approval in a local referendum. If not provided for differently in the ordinance, the surtax may not be levied for more than 15 years. They levy may be extended by majority vote in another referendum.

The referendum must include a general description of the projects to be funded by the surtax. Section 212.055(2)(d), F.S., limits the purposes for which the proceeds and any accrued interest can be used for. Proceeds and accruements can not be used for operational expenses. Except for a limited number of exceptions for counties under certain specifications, funds are only to be used by the school district or within the county and municipalities in the county to:

- Finance, plan, and construct infrastructure.
- Acquire land for public recreation or conservation or protection of natural resources.
- Finance the closure of certain county or municipally owned solid waste landfills.
- Retire or service bond indebtedness related to prior infrastructure construction.

[1] Section 212.054, F.S.

- Up to 15% may be used for economic development projects if specifically provided for in the referendum

Effect of Bill

Subject to any obligation to retire or service bonded indebtedness, this bill requires that only a minimum of 50% of the funds from the Local Government Infrastructure Surtax be used for the approved projects. It then provides that up to 35% of the funds may be used to reduce property taxes and up to 15% may be used for operational expenses. Operational expenses are not allowed to exceed the percentage used to reduce property taxes. If a county decides to use funds for operational expenses, the taxing authority can not increase property taxes above the rollback rate for the first year following the year in which funds are used for operational expenses, and can not increase property taxes more than 3% above the rollback rate during any subsequent years the levy is imposed.

C. SECTION DIRECTORY:

Section 1: Renumbers and amends section (d) to create a subsection (d)(2).

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   This bill affects the Department of Revenue in its oversight capacity for taxes imposed by a county.[2]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill gives local governments the option to redistribute proceeds from a current revenue source, the Local Government Infrastructure Surtax, to fund operational expenses and reduce property taxes. If this option is elected, property tax increases will be capped at 0% the first year and 3% for any subsequent year.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could reduce property taxes.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

[2] Department of Revenue: Bill Analysis (HB 823).

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

A bill to be entitled

An act relating to the local government infrastructure surtax; amending s. 212.055, F.S.; limiting use of surtax revenues for infrastructure purposes; authorizing a portion of surtax revenues to be used for property tax reduction under certain circumstances; authorizing use of a portion of surtax revenues for operating expenses under certain circumstances; providing limitations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.--It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

(d)1.a. At least 50 percent of the proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. ~~Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that~~ Any county with a population of less than 75,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), and charter counties may, in addition, use the proceeds and any interest accrued thereto to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of such proceeds or interest for purposes of retiring or servicing indebtedness incurred for such refunding bonds prior to July 1, 1999, is ratified.

b.~~2.~~ For the purposes of this subparagraph ~~paragraph~~, "infrastructure" means:

(I) ~~a.~~ Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

(II) ~~b.~~ A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

(III) ~~c.~~ Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities as defined in s. 29.008.

c. ~~3.~~ Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 15 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The ballot statement must indicate the intention to make an allocation under the authority of this sub-subparagraph ~~subparagraph~~.

2. Subject to any obligation to retire or service indebtedness incurred by the taxing authority under this subsection for bonds issued by the taxing authority prior to

July 1, 2006, and notwithstanding any other provision of this subsection, a taxing authority receiving proceeds of the surtax and any interest on such proceeds pursuant to this subsection may use up to 35 percent of such proceeds and interest to reduce property taxes and may use up to 15 percent of such proceeds and interest for operational expenses; however, the percentage used for operational expenses may not exceed the percentage used to reduce property taxes. The taxing authority may not increase property taxes for the first year following the year in which the taxing authority elected to use such proceeds and interest for operational expenses and may not increase property taxes above the rollback rate by more than 3 percent in the second and subsequent years during the period of the levy.

Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 847 City of Jacksonville, Duval County
SPONSOR(S): Mahon
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Economic Development, Trade & Banking Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends provisions of the City of Jacksonville Charter regarding the Jacksonville Economic Development Commission (Commission) in order to:

- Increase the number of Commission board members from seven to nine, three of whom must reside, work, or own property within the Jacksonville Downtown Area;
- Remove special act authority of the Jacksonville Downtown Development Authority, Jacksonville Sports Development Authority, Jacksonville International Airport Community Redevelopment Authority, and Cecil Field Development Commission to act as advisory boards to the Commission;
- Revise the list of persons who act in an advisory capacity to the Commission;
- Authorize the Commission to establish special or standing committees to advise the Commission on policy or strategic planning matters and establish the Downtown Committee of the Commission as a permanent standing committee; and
- Repeal special laws establishing the Jacksonville Downtown Development Authority as an advisory body of the Commission.

On December 13, 2005, the Jacksonville City Council adopted a resolution in support of this legislation.

According to the Economic Impact Statement, no fiscal impacts are anticipated in fiscal year 2005-06 or 2006-07.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The City of Jacksonville and Duval County merged in 1968[1], creating a single consolidated government entity (City) governing all of Duval County with the exception of the beach communities (Atlantic Beach, Neptune Beach and Jacksonville Beach) and Baldwin. The City government operates under a mayor as head of the administrative branch and the City Council as the legislative branch.

Jacksonville Economic Development Commission

The Jacksonville Economic Development Commission (Commission) was created in 1997 when the Legislature amended the City's charter in ch. 97-339, L.O.F. According to the "whereas" clauses in that legislation, economic development was an issue addressed by many agencies, authorities, departments and other entities in the City. The Commission was created to provide a focal point for economic development in the City that would result in centralization of economic development programs under one "umbrella" agency, ensuring a more efficient and practical means of addressing the goals, objectives, and strategies for economic development in the City.

The Commission is an autonomous body within the Office of the Mayor and is designated as the sole community redevelopment agency for the City under ch. 163, F.S., and as the sole industrial development authority for the City under ch. 159, F.S., with authority over all economic development functions within the City.

The Commission is governed by seven members, consisting of the chairman of the Jacksonville Downtown Development Authority and six members who are residents of the City. Commission members are appointed by the mayor and confirmed by the City Council. Each Commission member serves a 2-year term or until a successor is appointed. Commission members serve as commissioners of the community redevelopment agency under ch. 163, F.S., and as members of the industrial development authority under ch. 159, F.S.

When the Legislature created the Commission in 1997, the powers, duties, functions, liabilities, property, and personnel of the following entities, except for their advisory and fact-finding responsibilities, were transferred to the Commission:

- Jacksonville Downtown Development Authority;
- Jacksonville Sports Development Authority;
- Jacksonville International Airport Community Redevelopment Authority; and
- Cecil Field Development Commission.

Effect of Proposed Changes

Under this bill, the Jacksonville Downtown Development Authority, Jacksonville Sports Development Authority, Jacksonville International Airport Community Redevelopment Authority, and Cecil Field Development Commission will no longer serve as advisory boards to the Commission. However, the

[1] Ch. 67-1320, L.O.F.

Sports and Entertainment Board is authorized by local ordinance to serve the Commission in an advisory capacity and a representative of the board will serve as a technical support advisor to the Commission as required by this bill. The bill also provides for a representative of the Jacksonville International Airport Authority to serve as a technical advisor to the Commission.

The bill authorizes the Commission to establish special or standing committees to advise the Commission on policy or strategic planning matters. Each committee chair must be a member of the Commission. The Chair of the Commission appoints all committee members upon recommendation of the chair of each committee. Advisory committee members may or may not be Commission members. Committee members serve at the will of the Commission Chair for terms not to exceed 4 years.

The bill specifically establishes the Downtown Committee of the Commission as a permanent standing committee. The Downtown Committee functions as an advisory body to the Commission to undertake fact-finding on downtown issues and provide advice to the Commission on issues of importance to the downtown area. The Commission is required to provide the Downtown Committee with all resources necessary for the Committee to perform its duties and responsibilities, including staff. The Chair of the Downtown Committee must reside, work, or own property within the downtown area.

This bill increases the number of members of the Commission from seven to nine, all of whom must be residents of the City and at least three of whom must reside, work, or own property within the Jacksonville Downtown Area.

According to the Economic Impact Statement provided by the bill sponsor, "[t]he proposed changes to the [Commission] structure will streamline the economic development approval process for all economic development projects. The revised structure will raise the priority of downtown redevelopment efforts to the Commission level, which will create a more efficient and effective project approval process. The proposed changes will also enhance staff efficiency by aligning staff efforts with the Commission's strategic plan and goals."

On December 13, 2005, the Jacksonville City Council adopted Resolution 2005-1360-A in support of this legislation.

C. SECTION DIRECTORY:

Section 1. Amends Article 24 of the City of Jacksonville Charter to revise the membership of the Jacksonville Economic Development Commission; revise the list of persons who serve as advisors to the Commission; eliminate special law advisory board status of several local entities; and authorize creation of advisory committees by the Commission.

Seciton 2. Repeals Article 20 of ch. 93-341, L.O.F., as amended by ch. 97-339, L.O.F., to remove the Jacksonville Downtown Development Authority as an advisory board to the Commission.

Section 3. Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? October 26, 2005

WHERE? Financial News & Daily Record, Jacksonville, Duval County, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN? N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: This bill does not provide or amend rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Susan Stewart, representing the Duval County Legislative Delegation, indicated that "[t]his legislation is required in order to streamline the JEDC project approval process. The proposed changes will enhance staff efficiency and effectiveness and allow the commission to more aggressively promote economic development opportunities in the community. The proposed changes to the Jacksonville Economic Development Commission will streamline the economic development approval process for all economic development projects. The revised structure will raise the priority of downtown redevelopment efforts to the commission level which will create a more efficient and effective project approval process. The proposed changes will also enhance staff efficiency by aligning staff efforts with the commission's strategic plan and goals."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

FINANCIAL NEWS &

Daily Record

PROOF OF PUBLICATION

(Published Daily Except Saturday and Sunday)
Jacksonville, Duval County, Florida

STATE OF FLORIDA,
COUNTY OF DUVAL, } SS:

Before the undersigned authority personally appeared James F. Bailey, Jr., who on oath says that he is the Publisher of FINANCIAL NEWS and DAILY RECORD, a daily (except Saturday and Sunday) newspaper published at Jacksonville, in Duval County, Florida; that the attached copy of advertisement, being a

Notice of Intention to Apply for Local Legislation

in the matter of A Bill To Be Entitled

in the _____ Court, of Duval County, Florida, was published in said newspaper in the issues of October 26, 2005

Affiant further says that the said FINANCIAL NEWS and DAILY RECORD is a newspaper at Jacksonville, in said Duval County, Florida, and that the said newspaper has heretofore been continuously published in said Duval County, Florida, each day (except Saturday and Sunday) and has been entered as second class matter at the post office in Jacksonville, in said Duval County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Publisher

Sworn to and subscribed before me this day of October 26, 2005

ANGELA CAMPBELL
Notary Public, State of Florida
My comm. exp. Apr. 10, 2009
Comm. No. DD 398465

Angela Campbell
Notary Signature

Angela Campbell
Notary Public
DD398465

seal James F. Bailey, Jr. personally known to me

NOTICE OF INTENTION TO APPLY FOR LOCAL LEGISLATION

NOTICE IS HEREBY GIVEN that the undersigned will apply to the next Session of the Legislature of the State of Florida for the introduction of a local bill affecting the City of Jacksonville, Duval County, Florida, the substance of said bill being substantially as follows:

A bill to be entitled

An act relating to the Charter of the City of Jacksonville; as adopted in Chapter 97-339, Laws of Florida, as amended; amending sections 24.02, 24.03, 24.04, 24.05 and 24.06; adding a new section 24.13; repealing Article 20 Jacksonville Downtown Development Authority; restructuring the Jacksonville Economic Development Commission by increasing the number of members of the Commission, amending the membership qualification requirements, amending the provisions pertaining to ex-officio officers and technical support advisors, and creating a new downtown committee; providing an effective date. (J-4)

Oct. 26 00 (05-6993)

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
2006 LOCAL BILL CERTIFICATION

BILL #: J-4

SPONSOR(S): Representative Mahon

RELATING TO: Duval County and the JEDC/DDA Reorganization

[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Duval County Legislative Delegation

CONTACT PERSON: Susan Stewart

SUNCOM or PHONE #: (904) 630-1680 or SC 986-1680

I. *House policy requires that, before the House Committee on Local Government & Veterans' Affairs or its subcommittees considers a local bill, three things must occur: (1) The members of the local legislative delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a public hearing must be held in the area affected; and (3) at or after any public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by the legislative delegation.* ***Local bills will not be considered by a subcommittee or the Committee without a completed, original Local Bill Certification Form.***

Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

Has a public hearing been held? YES [X] NO [ ]

Date hearing held: 1/20/06

Location: City Hall Council Chambers – 117 W. Duval Street, Jax., FL 32202

Was this bill formally approved by a majority of the delegation members?
YES [ ] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless the bill has beenadvertised in advance (as provided in s. 11.02, F. S.) or is conditioned to take effect only upon approval byreferendum vote of the electors in the area affected.*

Has this Constitutional requirement been met?

Notice published: YES [X] NO [ ]

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxingprovision to approval by referendum vote of the electors in the area affected.*

Has this constitutional requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

IV. *House policy requires that economic impact statements for local bills be prepared at the local level.*
Will there be any costs or economic benefits associated with this bill?
YES [] NO [X]

Please complete the Economic Impact Statement form provided by the House Committee on Local Government & Veterans' Affairs whether or not there is an economic impact. It is the policy of the Committee that no bill will be considered without an original Economic Impact Statement. If possible, this form must accompany the bill when filed with the Clerk. In the alternative, please submit the form to the House Local Government & Veterans' Affairs Committee as soon as possible after the bill is filed.

Delegation Chair (*Original Signature*) Date 1/20/06

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
2006 ECONOMIC IMPACT STATEMENT

J-4

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House Local Government & Veterans' Affairs Committee that no bill will be considered by a subcommittee or the Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the House Local Government & Veterans' Affairs Committee as soon as possible after the bill is filed.

BILL #: J-4

SPONSOR(S): Representative Mahon

RELATING TO: Jacksonville Economic Development Commission

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 05-06	FY 06-07
Expenditures:		
None Anticipated		

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 05-06	FY 06-07
Federal:		
N/A		
State:		
N/A		
Local:		
N/A		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 05-06	FY 06-07
Revenues:		

It is anticipated the proposed changes to the JEDC organizational structure will eventually reduce staff time required to support multiple advisory boards.

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: The proposed changes to the Jacksonville Economic Development Commission structure will streamline the economic development approval process for all economic development projects. The revised structure will raise the priority of downtown redevelopment efforts to the Commission level, which will create a more efficient and effective project approval process The proposed changes will also enhance staff efficiency by aligning staff efforts with the Commission's strategic plan and goals.

Disadvantages: There are no foreseeable disadvantages.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

N/A

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

N/A

PREPARED BY: Jeanne M. Miller October 21, 2005
[Must be signed by Preparer] Date

TITLE: Deputy Executive Director

REPRESENTING: Jacksonville Economic Development Commission

PHONE: (904) 630-1540

E-Mail Address: jeannem@coj.net

A bill to be entitled

An act relating to the City of Jacksonville, Duval County; amending chapter 97-339, Laws of Florida, as amended; defining terms; restructuring the Jacksonville Economic Development Commission by increasing the number of members of the commission; revising membership qualification requirements; removing provisions relating to staggering of terms; revising provisions pertaining to ex officio and technical support advisors; removing provisions relating to duties of the executive director and to a prior transfer of certain functions and personnel; authorizing the chair of the commission to appoint special or standing committees for certain purposes; providing duties of the chair of the commission; providing for appointment of committee members and terms thereof; creating a downtown committee; providing duties and responsibilities of the downtown committee; repealing Article 20 of chapter 92-341, Laws of Florida, as amended, relating to the Jacksonville Downtown Development Authority; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 24.02, 24.03, 24.04, 24.05, 24.06, and 24.08 of Article 24 of chapter 97-339, Laws of Florida, as amended by chapter 99-443, Laws of Florida, are amended, and section 24.13 of that article is created, to read:

ARTICLE 24.

THE JACKSONVILLE ECONOMIC DEVELOPMENT COMMISSION

Section 24.02. Definitions.--As used in this article:

(1) "Commission" means the Jacksonville Economic Development Commission.

(2) "City" and "City of Jacksonville" mean the City of Jacksonville created pursuant to s. 9 of Art. VIII of the 1885 Constitution of the State of Florida.

(3) "Council" means the council of the City of Jacksonville.

(4) "Downtown committee" means the permanent committee within the commission assigned to focus on the revitalization and redevelopment of the Jacksonville Downtown Area.

(5) "Jacksonville Downtown Area" means the Downtown Overlay Zone area, as defined in the Jacksonville Zoning Code, as it may be amended from time to time.

(6) ~~(4)~~ "Mayor" means the mayor of the City of Jacksonville.

(7) ~~(5)~~ "Executive Director" means the executive director of the commission.

(8) ~~(6)~~ "Code" means the Ordinance Code of the City of Jacksonville.

Section 24.03. Commission membership.--The membership of the commission is established at nine ~~seven~~ members~~, consisting of the chairman of the Downtown Development Authority and six members,~~ who shall be residents of the City of Jacksonville and who shall be appointed by the mayor and confirmed by the Council. The mayor shall appoint a chairman who shall serve until such time as another chairman may be appointed by the

mayor. At least three members of the commission shall reside, work, or own property in the Jacksonville Downtown Area. Each member of the commission shall serve a term of two years or until a successor is appointed. ~~Apart from the chairman of the Downtown Development Authority, of the members first appointed, three members shall serve terms of 1 year each, and the remaining three members shall serve terms of 2 years each. Thereafter all members appointed to the commission shall serve terms of 2 years.~~ No member appointed to the commission for three consecutive full terms shall be eligible for appointment to a next succeeding term. The members shall serve as commissioners of the community redevelopment agency under part III, chapter 163, Florida Statutes, and they shall also serve as members of the industrial development authority under part III, chapter 159, Florida Statutes. All business of the commission shall be conducted at meetings wherein at least four members of the commission are present and voting.

Section 24.04. Individual Ex Officio Advisors to the commission.--The following individual ex officio advisors are named to assist the commission in an advisory or fact-finding role as may be requested individually or collectively of them by the commission so as to effectuate the centralized economic development goals of the commission. No ex officio advisor shall serve simultaneously as both an ex officio advisor and as an appointed member of the commission. These individual ex officio advisors shall be:

(1) The president of the Council of the City of Jacksonville or his or her designee.

(2) The Managing Director/Chief Executive Officer of the JEA ~~Jacksonville Electric Authority~~.

(3) The Managing Director of the Jacksonville Transportation Authority.

(4) The President/Chief Executive Officer of the Jacksonville Port Authority.

(5) The President/Chief Executive Officer of the Jacksonville Aviation Authority ~~Chairman of the Sports and Entertainment Board~~.

~~(6) The Chairman of the Cecil Field Development Commission.~~

~~(7) The Chairman of the Jacksonville International Airport Community Redevelopment Authority.~~

(6) ~~(8)~~ The Executive Director of the Jacksonville Housing Commission ~~Duval County Housing Finance Authority~~.

(7) ~~(9)~~ The Chairman of the Duval County State Legislative Delegation or his or her designee, who shall be a member of the delegation.

(8) ~~(10)~~ The Chairman of the NAACP or his or her designee.

(9) ~~(11)~~ The Chairman of the Urban League or his or her designee.

Section 24.05. Technical support advisors to the commission.--The following individual technical support advisors are named to assist the commission in such technical support roles as may be requested individually or collectively of them by the commission so as to effectuate the centralized economic development goals of the commission. These individual technical

support advisors shall be the directors or the board members, as appropriate, of the following entities:

(1) The Planning and Development Department of the city.

(2) The Jacksonville Film Commission.

(3) Sister cities.

(4) International Relations and Marketing Development Commission.

(5) Jacksonville Sports and Entertainment Board ~~Research and Development Authority~~.

(6) Jacksonville Enterprise Zone Development Agency.

(7) Northwest Jacksonville Economic Development Fund Advisory Committee.

(8) Overall Economic Development Plan Committee.

(9) Jacksonville Economic Development Company.

(10) Enterprise North Florida Corporation.

(11) City departments as appropriate.

(12) Jacksonville International Airport Community Redevelopment Area Board ~~Small Business Advisory Committee~~.

(13) Tourist Development Council.

(14) Convention and Visitor Bureau.

(15) The Superintendent of Duval County Public Schools.

(16) The President of the University of North Florida.

(17) The President of Florida Community College, Jacksonville.

Section 24.06. Executive Director.--The chief operating officer of the commission shall be its executive director, who shall be appointed by the mayor after consultation with the commission. The executive director shall be responsible for

managing the affairs of the commission subject to its supervision and shall serve at the pleasure of the mayor. The executive director shall also serve as an administrative aide to the mayor ~~and in that capacity shall serve as the mayor's liaison to the Downtown Development Authority and shall attend all meetings of that authority~~. The executive director will employ the personnel to administer and operate the commission in accordance with applicable law, available appropriations and employee authorizations. The executive director shall have such other duties and responsibilities as required by the commission. The executive director's salary shall be set by the mayor after consultation with the commission.

Section 24.08. Transfer of functions and personnel.--On July 1, 1997, the powers, duties, functions, liabilities, property and personnel of certain entities shall be transferred to and become the responsibility of the Jacksonville Economic Development Commission~~, as it is intended that these entities become advisory bodies to the commission which shall succeed to their former duties, responsibilities and functions~~. Any ordinance or law, the provisions of which conflict with the transfer authorized and mandated in this act are repealed to the extent of such conflict. Those entities whose powers, duties, functions, liabilities, property and personnel shall be transferred to the commission are:

(1) The Jacksonville Downtown Development Authority~~, except for its advisory and fact-finding responsibilities~~.

(2) The Jacksonville Sports Development Authority created under chapter 89-509, Laws of Florida~~, except for its advisory and fact-finding responsibilities~~.

(3) The Economic Development Division of the Planning and Development Department as set forth in the Jacksonville City Code, including, but not limited to, chapter 30, part 7, including all boards and commissions concerned with economic development which are staffed by the division.

(4) Any existing authority, functions or personnel held by the Jacksonville International Airport Community Redevelopment Authority. ~~Upon completion of this transition, the Jacksonville International Airport Community Redevelopment Authority shall continue to function in the nature of an advisory and fact-finding body to the commission concerning the area formerly under its jurisdiction.~~

(5) Any existing authority, functions or personnel held by the Cecil Field Development Commission, including any personnel under the authority of the mayor who are similarly assigned. ~~Upon completion of this transition, the Cecil Field Development Commission shall continue to function in the nature of an advisory and fact-finding body to the commission concerning the area formerly under its jurisdiction.~~

(6) On July 1, 1997, all of the employees of the organizations listed above, both appointed and within the classified civil service of the city, shall be transferred to the commission and shall become appointed employees of the commission. These employees shall not retain any civil service status that they may have had prior to becoming an employee of

the commission unless any civil service employee who is to be transferred elects to retain his or her civil service status and in such case he or she shall serve as an employee of the commission with no loss in civil service status or benefits that he or she may have accrued prior to transfer.

Section 24.13. Committees.--

(1) The chair of the commission may appoint special or standing committees to advise the commission on policy or strategic planning matters. The chair of the commission shall appoint a chair of each committee, and each committee chair shall be a member of the commission. The chair of the commission shall appoint all special or standing committee members upon recommendation from the chair of each committee. Such advisory committee members may consist of commission members or noncommission members. All committee members shall serve at the will of the chair of the commission for terms not to exceed 4 years as specified by the chair.

(2) Central to the mission of the commission is the revitalization and development of a healthy and vibrant Jacksonville Downtown Area. There is hereby created the downtown committee of the commission, which shall be a permanent committee of the commission. The downtown committee shall function as an advisory body to the commission to undertake fact-finding on downtown issues and provide advice to the commission on issues of importance to the Jacksonville Downtown Area. The downtown committee shall have and perform such other duties and responsibilities as the commission may assign to it from time to time. The commission shall be responsible for and

shall provide to the downtown committee all resources necessary for the committee to effectively achieve its duties and responsibilities. Such resources shall include staff assigned to work on downtown redevelopment matters by the executive director of the commission. The chair of the commission shall appoint a chair of the downtown committee, and such committee chair shall be a commission member who resides, works, or owns property in the Jacksonville Downtown Area.

Section 2. Article 20 of chapter 92-341, Laws of Florida, as amended by chapter 97-339, Laws of Florida, is repealed.

Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 891 Local Occupational License Taxes
SPONSOR(S): Goldstein and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1822

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

This bill allows a municipality that adopted a local occupational license tax ordinance after October 1, 1995, to revise its current tax rate or classification structure before October 1, 2006 under an alternative revision method. If a municipality wishes to revise its local occupational license tax ordinance as authorized by this bill, the municipality must first appoint an equity study commission to make recommendations to the municipality's governing body regarding rate and classification structure revisions. Members of the study commission must be representatives of the business community within the city's jurisdiction. A reclassification may not increase an occupational license tax by more than the following:

- For licenses costing $150 or less, 200 percent;
- For licenses costing more than $150 but not more than $500, 100 percent;
- For licenses costing more than $500 but not more than $2,500, 75 percent;
- For licenses costing more than $2,500 but not more than $10,000, 50 percent; and
- For licenses costing more than $10,000, 10 percent.

However, a municipal occupational license tax may not be increased by more than $5,000, nor may revenues generated by the new rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. If a municipality revises its occupational license tax ordinance prior to October 1, 2006, license taxes may be increased by up to 5 percent each subsequent year if approved by a majority plus one of the municipal governing body.

The bill also clarifies that counties and municipalities may decrease or repeal occupational license taxes.

This bill does not appear to have a fiscal impact on state government, and will have a fiscal impact on those counties or cities that choose to revise their occupational license tax rates or classifications.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides for Lower Taxes – This bill provides authority for municipalities to revise current occupational license tax ordinances that were adopted after October 1, 1995. The bill also permits municipalities and counties to lower or eliminate local occupational license taxes. Therefore, this bill may result in lower or higher occupational license taxes for some taxpayers depending on the actions of the local governments.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 205.0535, F.S., authorized counties and municipalities to revise occupational license tax ordinances prior to October 1, 1995. In order for a county or municipality to reclassify businesses, professions, or occupations and establish new rate structures under this section, the municipality or county had to first establish an equity study commission composed of representatives of the business community within the local government's jurisdiction. The equity study commission was required to recommend a classification system and rate structure for local occupational license taxes. The local government was authorized to adopt by majority vote a new occupational license tax ordinance after considering the equity study commission recommendation. A reclassification could not increase the occupational license tax by more than the following:

- For licenses costing $150 or less, 200 percent;
- For licenses costing more than $150 but not more than $500, 100 percent;
- For licenses costing more than $500 but not more than $2,500, 75 percent;
- For licenses costing more than $2,500 but not more than $10,000, 50 percent; and
- For licenses costing more than $10,000, 10 percent.

However, in no case could a license tax be increased by more than $5,000 nor could the revenues generated by the new tax rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. The revenue base is the sum of the occupational license tax revenue generated by licenses issued for the most recently completed local fiscal year or the amount of revenue that would have been generated from the authorized increases under s. 205.043(1)(b), F.S., whichever is greater, plus any revenue received from the county under s. 205.033(4), F.S.

If a municipality or county revised its occupational license tax ordinance prior to October 1, 1995, license taxes may be increased each subsequent year by up to 5 percent if approved by a majority plus one of the municipal governing body.

Unless a municipality revised its rate or classification structure in accordance with s. 205.0535, F.S., prior to October 1, 1995, or adopted a new occupational license tax ordinance under s. 205.0315, F.S., an occupational license tax levied under s. 205.043, F.S., may not exceed the rate in effect for the year beginning October 1, 1971. Section 205.043, F.S., requires revisions to existing classifications to be "reasonable" and "uniform throughout any class". In addition, the amount of the increase above the license tax rate levied on October 1, 1971, is limited as follows:

- For taxes under $100, a 100% increase is permitted;
- For taxes between $101 and $300, a 50% increase is permitted;
- For taxes over $300, a 25% increase is permitted; and
- For taxes levied at a graduated or per unit rates, a 25% increase is permitted.

Beginning October 1, 1995, a county or municipality that has not adopted an occupational license tax ordinance or resolution may do so under s. 205.0315, F.S. The occupational license tax rate structure and classifications in the adopted ordinance must be reasonable and based upon the rate structure and classifications prescribed in ordinances adopted by adjacent local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S. If no adjacent local government has done so, or if the governing body of the county or municipality finds that the rate structures or classifications of adjacent local governments are unreasonable, the rate structure or classifications prescribed in its ordinance may be based upon those prescribed in ordinances adopted by local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S., in counties or municipalities that have a comparable population.

Effect of Proposed Changes

This bill amends s. 205.0535, F.S., to allow a municipality that adopted a local occupational license tax ordinance after October 1, 1995 to revise its current tax rate or classification structure before October 1, 2006 under an alternative revision method. If a municipality wishes to revise its local occupational license tax ordinance as authorized by this bill, the municipality must follow the same procedures that applied to revisions of rate and classification structures made prior to October 1, 1995 under s. 205.0535, F.S. Under those procedures, a municipality must first appoint an equity study commission to make recommendations to the municipality's governing body regarding rate and classification structure revisions. Members of the study commission must be representatives of the business community within the local government's jurisdiction. A reclassification adopted by a municipality pursuant to this bill may not increase an occupational license tax by more than the following:

- For licenses costing $150 or less, 200 percent;
- For licenses costing more than $150 but not more than $500, 100 percent;
- For licenses costing more than $500 but not more than $2,500, 75 percent;
- For licenses costing more than $2,500 but not more than $10,000, 50 percent; and
- For licenses costing more than $10,000, 10 percent.

However, a municipal occupational license tax may not increase by more than $5,000, nor may revenues generated by the new rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. If a municipality revises its occupational license tax ordinance prior to October 1, 2006, license taxes may be increased by up to 5 percent each subsequent year if approved by a majority plus one of the municipal governing body.

The bill also grants counties and municipalities authority to decrease taxes. Currently, the statute does not explicitly grant such authority and the Attorney General's Office has advised a number of jurisdictions that, in the absence of such authority, no decrease or elimination is possible. In AGO 2002-81, the Attorney General writes:

> On several occasions, this office has addressed the authority of a municipality to alter its occupational license tax ordinance, through the exemption of certain categories of occupations or businesses or by decreasing the rates for a particular classification. In the absence of legislative authorization, this office has determined that no such alteration may be made. Given the number of instances where local governments have sought to make such alterations, it may be advisable to seek legislative changes to provide the necessary authority.

Lastly, the bill specifies that nothing in ch. 205, F.S., may be construed to prohibit a municipality or county from decreasing or repealing any license tax authorized under that chapter.

C. SECTION DIRECTORY:

Section 1. Amends section 205.0535, F.S., to allow municipalities that adopted an occupational license tax ordinance after October 1, 1995 to reclassify businesses, professions, and occupations, and establish new rate structure under the provision of that section prior to October 1, 2006; allows municipalities and counties to decrease or repeal license tax rates.

Section 2. Provides that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill will give municipalities more flexibility to revise local occupational license taxes, including the ability to increase, reduce, or eliminate those taxes.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: This bill grants municipalities and counties the authority to eliminate or reduce local occupational license taxes. As such, some taxpayers may see a reduction in or elimination of these taxes. The bill also allows municipalities to revise their current license tax or classification structure in a manner that may result in an increase of license taxes for some taxpayers.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: This bill does not amend or grant rule making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

A bill to be entitled

An act relating to local occupational license taxes; amending s. 205.0535, F.S.; updating provisions authorizing reclassification and new rate structure revisions to local occupational license taxes by ordinance; deleting counties from such authorization provisions; authorizing decreasing local occupational license tax rates; providing construction with respect to decreasing or repealing such taxes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (4) of section 205.0535, Florida Statutes, are amended to read:

205.0535 Reclassification and rate structure revisions.--

(1) By October 1, 2006 ~~1995~~, any municipality that has adopted by ordinance an occupational license tax after October 1, 1995, ~~or county~~ may~~,~~ by ordinance~~,~~ reclassify businesses, professions, and occupations and may establish new rate structures, if the conditions specified in subsections (2) and (3) are met. A person who is engaged in the business of providing local exchange telephone service or a pay telephone service in a municipality or in the unincorporated area of a county and who pays the occupational license tax under the category designated for telephone companies or a pay telephone service provider certified pursuant to s. 364.3375 is deemed to have but one place of business or business location in each

municipality or unincorporated area of a county. Pay telephone service providers may not be assessed an occupational license tax on a per-instrument basis.

(4) After the conditions specified in subsections (2) and (3) are met, municipalities and counties may, every other year thereafter, increase or decrease by ordinance the rates of local occupational license taxes by up to 5 percent. An ~~The~~ increase, however, may not be enacted by less than a majority plus one vote of the governing body. Nothing in this chapter shall be construed to prohibit a municipality or county from decreasing or repealing any license tax authorized under this chapter.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 921 Pinellas County Water and Navigation Control Authority
SPONSOR(S): Berfield
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill abolishes the Pinellas County Water and Navigation Control Authority, and provides for the transfer of assets and liabilities to Pinellas County.

The bill does not appear to have any impact on local and state budgets.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill abolishes the Pinellas County Water and Navigation Control Authority.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Pinellas County Water and Navigation Control Authority (Authority) was created in 1955 by chapter 31182, L.O.F., 1955. The Authority was created to provide for adequate regulation and control of all water, water courses, waterways, inlets, bays, bayous, lakes, submerged bottom lands, islands, sandbars, and swamp and overflow lands and their alteration by dredging, filling, pumping, or otherwise altering the shoreline, land contours or water areas, and in the interest of public rights, public welfare, protection of public riparian property rights, preservation and protection of the state's natural resources and scenic beauty of the bays, bayous, harbors, streams, lakes, water courses, inlets, submerged bottom lands, islands, sandbars, and swamp and overflow lands, and to aid and assist boating activities and navigation.

The Water and Navigation Section of the Office of Water Policy within the Department of Environmental Management[1] handles the permitting of docks and dredge and fill projects in both the unincorporated areas of Pinellas County as well as within municipal limits. The types of projects which require permits from the Pinellas County Water and Navigation Control Authority include private single family docks, multi-use docks, commercial docks, marinas, seawalls, riprap, tie poles, and all dredging or filling within the Waters of the County. Projects are reviewed for environmental impacts, navigational impacts, construction requirements, as well as consistency with the Pinellas County Water and Navigation Code.[2]

Effect of Proposed Changes

This bill repeals chapter 31182, L.O.F., 1955, and chapters 72-664, 74-588, 78-602, 81-471, and 85-493, L.O.F., and thereby abolishes the Pinellas County Water and Navigation Control Authority on January 1, 2007, and transfers the assets and liabilities of the Authority to Pinellas County.

C. SECTION DIRECTORY:

Section 1: Repeals chapter 31182, L.O.F., 1955, and chapters 72-664, 74-588, 78-602, 81-471, and 85-493, L.O.F.

Section 2: Abolishes the Authority; transfers the assets and liabilities of the Authority to Pinellas County, and provides that Pinellas County will assume the Authority's obligations.

Section 3: Provides an effective date of January 1, 2007.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

[1] http://www.dep.state.fl.us/water/waterpolicy/index.htm.
[2] http://www.pinellascounty.org/Environment/pagesHTML/watrNav/wn500.html.

IF YES, WHEN? December 30, 2005

WHERE? *Pinellas News*, St. Petersburg, Pinellas County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not applicable.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Chapter 74-588, L.O.F., relates to Pinellas County, the bill amends different special district charters. Only s. 3 of the bill should be repealed because it specifically relates to the Water and Navigation Control Authority.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

Pinellas News
www.pinellas-news.com
TEL (727) 894-2411 FAX (727) 894-2522

PINELLAS COUNTY LEGISLATIVE DELEGATION
Attn: MS. DONNA McGAUGHEY
311 S. OSCEOLA AVENUE
CLEARWATER, FL 33756-5122

NO.: **123017**
ACCT: **15008**
Subject: **MOSQUITO CONTROL DISTRICT**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is the Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: MOSQUITO CONTROL DISTRICT OF PINELLAS COUNTY AND THE PINELLAS COUNTY WATER AND NAVIGATIONAL CONTROL AUTHORITY** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to Pinellas County; repealing chapter 67-1920, Laws of Florida, and chapters 31182, 1955, Laws of Florida, and 72-664, 74-588, 78-602, 81-471, and 85-493, Laws of Florida; abolishing the Mosquito Control District of Pinellas County and the Pinellas County Water and Navigational Control Authority; transferring their respective assets and liabilities to the county; providing for a referendum; providing an effective date and a conditional effective date.

15008 Dec 30, 2005 123017

Carter B. Chase

The foregoing instrument was acknowledged before me by Carter B. Chase, personally known to me
this **30TH** Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES: [illegible], 2009
1-800-3-NOTARY Fl. Notary Discount Assoc. Co.

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 921 SB 1830

SPONSOR(S): Rep. Kim Berfield Senator Jim Sebesta

RELATING TO: Pinellas County Water Navigation Control Dist.

[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: 922-6414

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: December 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members? YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [Dec. 30, 2005 **]**

Where? Pinellas News **County** Pinellas

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

1-06-06

Delegation Chair (*Original Signature*) **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: SB 1830 and HB 921

SPONSOR(S): Senator Sebesta and Representative Berfield

RELATING TO: Pinellas County Water and Navigation Control Authority
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 06-07	FY 07-08
Expenditures:	None	

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	None	
State:	None	
Local:	None	

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	None	

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Abolishing the special district will allow a more streamlined ability for the law to be amended. Now, it functions as a county department and not as a special district, and is funded as a county department.

Disadvantages: None

V. **ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:** Will make Pinellas County able to respond more quickly to changes in competition and open market by an ordinance amendment rather than state legislature.

VI. **DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) O DATA]:** Review of Pinellas County budget.

PREPARED BY: _____ /1/06
[Must be signed by Preparer] Date

Susan H. Churuti

TITLE: Pinellas County Attorney

REPRESENTING: Pinellas County

PHONE: (727-464-3354)

E-Mail Address: schuruti@co.pinellas.fl.us

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 921

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Local Government

Representative Berfield offered the following:

Amendment (with title amendment)

Remove line 14 and insert:

Laws of Florida, 1955, section 3 of chapter 74-588, Laws of Florida, and chapters 72-664, 78-602, 81-

========== T I T L E A M E N D M E N T ==========

Remove line 4 and insert:

Laws of Florida, 1955, section 3 of chapter 74-588, Laws of Florida, and chapters 72-664, 78-

000000

h921.amd.lgc.1

A bill to be entitled

An act relating to the Pinellas County Water and Navigation Control Authority; repealing chapter 31182, Laws of Florida, 1955, and chapters 72-664, 74-588, 78-602, 81-471, and 85-493, Laws of Florida; abolishing the Pinellas County Water and Navigation Control Authority; transferring all assets and liabilities of the authority to the county; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Special laws relating to the Pinellas County Water and Navigation Control Authority, including chapter 31182, Laws of Florida, 1955, and chapters 72-664, 74-588, 78-602, 81-471, and 85-493, Laws of Florida, are repealed and shall become ordinances of Pinellas County as provided in section 5.02(a) of the Pinellas County Charter.

Section 2. The Pinellas County Water and Navigation Control Authority is abolished. All assets and liabilities of the authority are transferred to Pinellas County, and Pinellas County shall assume all the authority's obligations.

Section 3. This act shall take effect January 1, 2007.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 923 Troup-Indiantown Water Control District, Martin County
SPONSOR(S): Machek
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Water & Natural Resources Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends the charter of the Troup-Indiantown Water Control District (District), an independent special district located in Martin County, Florida. The bill amends the legal boundaries of the District to correct an error in the District's charter.

The bill also creates an exception to general law by changing the residency requirements of individuals who sit on the board of supervisors (board). Under current law, a supervisor must be a resident of a county in which the district is located and own land in the district. This bill changes the requirement so that a supervisor must be a resident of the State of Florida and a citizen of the United States.

The bill would take effect upon becoming law.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2006-07 or 2007-08.

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill may create such an exemption.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Troup-Indian town Water Control District (District) was re-codified in chapter 2002-366, L.O.F. The re-codification incorporated the general provisions of chapters 189 and 291, F.S., into the District's charter. The District has all powers, functions, and duties of a water control district for revenue-raising, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and certificates, and contractual agreements. The District is comprised of 13,780.68 acres.

General law under s. 298.11(1), F.S., provides that the board of supervisors be composed of three elected individuals who are owners of land in the district and residents of a county in which the district is located. This has been seen as a two part requirement, requiring both ownership and residency. This requirement prevents corporations from serving on the board of supervisors through an officer of the company, unless the officer meets the qualification independently.[1]

Pursuant to Article III, section 11 of the State Constitution, s. 298.76, F.S., provides that there shall be no special or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed under chapter 298, F.S. However, s. 298.76(3), F.S., provides that special or local legislation may be enacted by the Legislature to change the term of office or qualifications of the board of supervisors for a water control district.

HB 923 removes the land ownership and residency requirements of s. 298.11, F.S., from the District's charter. Instead, the bill requires that a member of the board of supervisors for the District be a resident of the State of Florida and a citizen of the United States. This would enable corporate officers who are citizens of the United States and Florida residents to serve on the board of supervisors for the District.

The boundary changes involve adding approximately 960 acres to the Northeast section of the District and deleting approximately 880 acres in the Southwest at the consent of the landowner.[2] The area being added is currently being taxed by the District, and the area being removed is not taxed by the District.[3]

C. SECTION DIRECTORY:

Section 1: Section1 of chapter 2002-366, Laws of Florida, is amended, relating to district boundaries.

Section 2: Subsection (4) of section 2 of section 1 is amended to require members of the board of supervisors to be residents of Florida and citizens of the United States.

Section 3: Provides the effective date of upon becoming a law.

---

[1] AGO 2000-31
[2] Martin County Legislation Delegation, Participation Request Form (2006 Legislative Session).
[3] Estimated Economic Impact Statement

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 30, 2005

WHERE? *Stuart News*, St. Lucie and Martin Counties, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

The impact statement suggests that the property being added in the boundary change is currently paying and will continue to pay taxes, and the property that is being removed has not and will not pay taxes, indicating there will be no economic impact on the individuals, businesses, or governments in the District.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments:

The boundaries are being changed to correspond with the area that is actually being taxed and serviced by the District. There was a typo made in the legal description in chapter 2002-366, L.O.F., and the proposed changes would correct the problem.[4]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

[4] E-mail from James Watt of Caldwell & Pacetti, March 2, 2006.

HB 1723

SCRIPPS TREASURE COAST NEWSPAPERS

The Stuart News
The Port St. Lucie News
1939 S. Federal Highway, Stuart, FL 34994

SCRIPPS HOWARD

AFFIDAVIT OF PUBLICATION

STATE OF FLORIDA
COUNTY OF MARTIN; COUNTY OF ST. LUCIE

Before the undersigned authority personally appeared, S. Darlene Mailing, who on oath says that she is Classified Inside Sales Manager of the Stuart News and the Port St. Lucie News, a daily newspaper published at Stuart in Martin County, Florida: that the attached copy of advertisement was published in the Stuart/Port St. Lucie News in the following issues below. Affiant further says that the said Stuart/Port St. Lucie News is a newspaper published in Stuart in said Martin County, Florida, with offices and paid circulation in Martin County and St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said Martin County, Florida, daily and distributed in Martin and St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The Stuart News has been entered as Periodical Matter at the Post Offices in Stuart, Martin County, Florida and Ft. Pierce, St. Lucie County, Florida and has been for a period of one year next preceding *the first publication of the attached copy of advertisement.*

Customer	Ad Number	Pub Date	Copyline	PO #
CALDWELL & PACETTI, LL	1296527	12/30/2005	NOTICE OF INTENTION	

0119 MISCELLANEOUS NOTICE

NOTICE OF INTENTION TO APPLY FOR PASSAGE OF LOCAL LEGISLATION

Notice is hereby given that at the session of the Legislature of the State of Florida, which convenes March 7, 2006, application shall be made by Troup-Indiantown Water Control District for the passage of special or local legislation, the substance of which is as follows:

A bill to be entitled an act relating to the Troup-Indiantown Water Control District, Martin County; amending Chapter 2002-366, Laws of Florida; correcting the legal description of the boundaries of the District; providing for a change in the membership and organization of the Board; providing an effective date.

Dated this 28th day of December, 2005.

Pub: December 30, 2005
1296527

9003 DOMESTIC

Subscribed and sworn to me before this date:

December 30, 2005

S. Darlene Mailing

Notary Public

Donna Jean Smith
Commission #
Expires Aug. 13, 2006

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 923

SPONSOR(S): Rep. Richard Machek

RELATING TO: Trap - Indiantown Water Control District

[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Martin County

CONTACT PERSON: Victoria Nowlan

PHONE # and E-Mail: (561) 279-1633 VICTORIA.NOWLAN@myflorida.com

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: December 16, 2005

Location: Stuart, FL (Martin County Commission Chambers)

(3) Was this bill formally approved by a majority of the delegation members? YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [_____]

Where? Stuart News ~~Port St Lucie News~~ **County** Martin

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?

YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Delegation Chair (*Original Signature*) **Date** 12/16/05

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House Local Government & Veterans' Affairs Committee that no bill will be considered by a subcommittee or the Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the House Local Government and Veterans' Affairs Committee as soon as possible after the bill is filed.

BILL #: _____

SPONSOR(S): _____

RELATING TO: Troup-Indiantown Water Control District
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 06-07	FY 07-08
Expenditures:	NONE	NONE

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:		
State:	NOT APPLICABLE	
Local:		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues: Estimated	NONE	NONE

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Property to be added to District has been paying taxes as if in District and will continue to be subject to taxes assessed by District.

Disadvantages: Property to be deleted from District has not been paying taxes and will no longer be subject to taxes assessed by District.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

NONE

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDE SOURCE[S] OF DATA):

Prior year's assessment roll.

PREPARED BY: James L. Watt 12/8/05
Date

TITLE: Counsel

REPRESENTING: Caldwell & Pacetti

PHONE: (561) 655-0620

E-Mail Address: watt@caldwellpacetti.com

A bill to be entitled

An act relating to the Troup-Indiantown Water Control District, Martin County; amending chapter 2002-366, Laws of Florida; correcting the legal description of the boundaries of the district; revising requirements for membership on the board of supervisors; clarifying applicability of general law; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1 of section 1 of chapter 2002-366, Laws of Florida, is amended to read:

Section 1. Status and boundaries of Troup-Indiantown Water Control District.--The Troup-Indiantown Water Control District is hereby declared to be an independent water control district and a public corporation of the State of Florida pursuant to chapter 298, Florida Statutes, as it may be amended from time to time, and the lands lying within the area described as follows in Martin County, Florida, shall hereby constitute the Troup-Indiantown Water Control District:

Beginning at the southeast corner of Section 28 ~~33~~, Township 39 South, Range 39 East, run thence East with the South line of Section 27 ~~34~~ a distance of 60 feet to a point; run thence North on a line 60 feet East of and parallel to the East lines of Sections ~~33,~~ 28, 21 and 16 to a point in the North line of Section 15 which is 60 feet East of the Northwest corner of said

Section 15; run thence in a straight line to the Northeast corner of Section 9; run thence North ~~Northward~~ with the East line of Section 4 to the Northeast corner thereof; thence run West ~~Westward~~ with the North lines of Section 4, 5, and 6 to a point in the North line of Section 6, which is 50 feet East of the Northwest corner of said Section 6; run thence South ~~Southward~~ with a line which is 50 feet East of and parallel to the West lines of Sections 6 and 7 and the North one-half of Section 18 to a point; run thence Southeastward in a straight line to the Northeast corner of Section 30; run thence Southeastward to the Southwest corner of the East one-half of the Southwest one-quarter of Section 29; run thence East ~~Eastward~~ with the South line of Sections 28 and ~~Section~~ 29 ~~a distance of 1329.12 feet to the Northwest corner of the East one-half of Section 32; run thence South with the West line of the East one-half of Section 32 a distance of 1675.73 feet to a concrete monument which is on the Southwest bank of a drainage canal; run thence South 23E 49' 29" East a distance of 614.2 feet to a point on the Southwest bank of said drainage canal; run thence South 20E 16' 59" East a distance of 873.6 feet to a point on the Southwest bank of said drainage canal; run thence South 37E 49' 39" East a distance of 1426.46 feet to a point on the Southwest bank of said drainage canal; run thence South 42E 05' 24" East a distance of 429.70~~

~~feet to a point on the Southwest bank of said drainage canal; run thence South 22E 51' 04" East a distance of 830.8 feet to a point on the Southwest bank of said drainage canal; run thence South 32E 45' 39" East a distance of65.38 feet to an intersection point with the South line of Section 32, which point is 569.23 feet West of the Southeast corner of said Section 32; run thence East with the South lines of Sections 32 and 33~~ to the point of beginning.

and

Beginning at a point on the South line of the North 1/2 of Section 34, Township 39 South, Range 39 East, which point is 60 feet East of the Southwest corner of the North 1/2 of said Section 34, thence run East along the South boundary line of the North 1/2 of Sections 34 and 35 to the Southeast corner of the Northwest 1/4 of Section 35; thence run North along the East boundary line of the West 1/2 of Sections 35, 26, 23, 14, ~~and~~ 11, and 2, to the North line of Section 2 ~~11~~; thence run West along the North lines of Sections 2 ~~10~~ and 3 ~~11~~ to the Northwest corner of Section 3 ~~10~~; and thence run South along the West line of Section 3 to the Southwest corner thereof; thence Southward ~~South~~ in a straight line to a point on the South line of Section 10, which point is 60 feet East of the Southwest corner of Section 10; thence run

South parallel to 60 feet East of the West lines of Section 15, 22, 27 and 34 to the point of beginning. All of said lands lying and being in Township 34 South, Range 39 East.

~~and~~

~~Beginning at a point on the South line of the North 1/2 of Section 34, Township 39 South, Range 39 East, which point is 60 feet East of the Southwest corner of the North 1/2 of said Section 34, thence run East along the South boundary line of the North 1/2 of Sections 34 and 35, to the Southeast corner of the Northwest 1/4 of Section 35; thence run North along the North-South quarter section lines of Section 35, 26, 23, 14 and 11, to the North line of Section 11; thence run West along the North lines of Section 11 and 10 to the Northwest corner of Section 10; thence run South in a straight line to a point in the South line of Section 10, which point is 60 feet East of the Southwest corner of Section 10; thence run South parallel to and 60 feet East of the West lines of Sections 15, 22, 27 and 34, to the Point of Beginning. All of said lands lying and being in Township 39 S, Range 39E.~~

Section 2. Subsection (4) of section 2 of section 1 of chapter 2002-366, Laws of Florida, is amended to read:

Section 2. Minimum charter requirements.--In accordance with section 189.404(3), Florida Statutes, the following subsections shall constitute the charter of the Troup-Indiantown Water Control District:

(4) In accordance with this act and chapters ~~chapter~~ 189 and 298, Florida Statutes, to the extent not inconsistent with this act, ~~and section 298.11, Florida Statutes,~~ the district is governed by a three-member board, elected on a one-acre, one-vote basis by the landowners ~~landowner~~ in the district; however, landowners owning less than one acre shall be entitled to one vote. Landowners with more than one acre shall be entitled to one additional vote for any fraction of an acre greater than 1/2 acre owned, when all of the landowner's acreage has been aggregated for purposes of voting. Notwithstanding s. 298.11(1), Florida Statutes, members of the board of supervisors do not have to be owners of lands in the district and residents of the county or counties in which the district is located but must be residents of the State of Florida and citizens of the United States. The membership and organization of the board shall be as set forth in this act and chapter 298, Florida Statutes, as they may be amended from time to time, provided this act controls with respect to any inconsistency.

Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 925 Pinellas County Tourist Development Council, Pinellas County
SPONSOR(S): Anderson
TIED BILLS: **IDEN./SIM. BILLS:** SB 2330

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Tourism Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends ch. 2001-307, L.O.F., to:

- Increase the number of members on the Pinellas County Tourist Development Council (Council) from 11 to 12;
- Require one member to be an elected city official who represents the city in which the greatest percentage of tourist development tax revenue is generated in Pinellas County; and
- Require one member to be an elected city official representing a city in Pinellas County other than Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island.

The Economic Impact Statement indicates that the bill will not have a fiscal impact in fiscal years 2006-07 or 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Statutory Requirements Regarding Tourist Development Councils

The governing board of each county that levies and imposes a tourist development tax under s. 125.0104, F.S., must appoint an advisory council to be known as the " (name of county) Tourist Development Council." The council must be established by ordinance and composed of nine members who are appointed by the governing board. The chair of the governing board of the county or any other member of the governing board as designated by the chair must serve on the council. Two members of the council must be elected municipal officials, at least one of whom shall be from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. Six members of the council must be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four must be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council must be electors of the county. The governing board of the county must have the option of designating the chair of the council or allowing the council to elect a chair. The chair must be appointed or elected annually and may be reelected or reappointed.

The members of the council must serve for staggered terms of 4 years. The terms of office of the original members must be prescribed in the resolution establishing the council. The council must meet at least once each quarter and, from time to time, must make recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by county ordinance or resolution. The council must continuously review expenditures of revenues from the tourist development trust fund and must receive, at least quarterly, expenditure reports from the county governing board or its designee. Expenditures which the council believes to be unauthorized must be reported to the county governing board and the Department of Revenue. The governing board and the department must review the findings of the council and take appropriate administrative or judicial action to ensure compliance with this section.

Pinellas County Tourist Development Council

In 2001, the Legislature enacted ch. 2001-307, L.O.F., to modify the composition of the Pinellas County Tourist Development Council (Council). The Council is now composed of 11 members who are appointed by the Pinellas County Board of County Commissioners. The chair of the Pinellas County Board of County Commissioners or any other member as designated by the chair must serve on the Council. Three members of the Council must be elected municipal officials, one of whom must be from the most populous municipality in Pinellas County, and at least one of whom must be from among the cities of Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island. Seven members of the council must be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four must be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council must be electors of the county.

Effect of Proposed Changes

This bill amends ch. 2001-307, L.O.F., to increase the number of members on the Pinellas County Tourist Development Council (Council) from 11 to 12, require one member to be an elected city official who represents the city in which the greatest percentage of tourist development tax revenue is generated in Pinellas County, and require one member to be an elected city official representing a city in Pinellas County other than Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island.

C. SECTION DIRECTORY:

Section 1. Amends ch. 2001-307, L.O.F., to modify the composition of the Pinellas County Tourist Development Council.

Section 2. Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? December 30, 2006

WHERE? Pinellas News, St. Petersburg, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

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Pinellas News
www.pinellas-news.com
TEL (727) 894-2411 FAX (727) 894-2522

PINELLAS COUNTY LEGISLATIVE DELEGATION
Attn: MS. DONNA McGAUGHEY
311 S. OSCEOLA AVENUE
CLEARWATER, FL 33756-5122

NO.: **123018**
ACCT: **15008**
Subject: **PINELLAS COUNTY TOURIST DEVELOPMENT COUNCIL**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is the Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: PINELLAS COUNTY TOURIST DEVELOPMENT COUNCIL** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Carter B. Chase

The foregoing instrument was acknowledged before me by Carter B. Chase, personally known to me
this **30TH** Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES: July 12, 2009
Fl. Notary Discount Assoc. Co.

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby gi en of intent to apply to the 2006 Legislature for passage of a act relating to the Pinellas County Tourist Development C uncil, Pinellas County; amending chapter 2001-307, Laws of Florida; revising the membership of the council; providing the ffective date for such changes in council membership; providin an effective date.

15008 Dec 30, 2005 123018

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: _____

SPONSOR(S): Representative Anderson & Senator Fasano

RELATING TO: Pinellas County Tourist Development Council

[Indicate Area Affected (~~City~~, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: SC 570-3592 dmcgaugh@pinellascounty.org

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: December 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members? YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [December 30, 2005]

Where? Pinellas News **County** Pinellas

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

12.19.05

Delegation Chair (*Original Signature*) **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #:

SPONSOR(S): Rep. Tom Anderson (45)

RELATING TO: Pinellas County - Tourist Development Council Composition
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

		FY 06-07	FY 07-08
Expenditures:	None	0	0

II. ANTICIPATED SOURCE(S) OF FUNDING:

		FY 06-07	FY 07-08
Federal:	None	0	0
State:	None	0	0
Local:	None	0	0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

		FY 06-07	FY 07-08
Revenues:	None		

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: None

Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

N/A

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

N/A

PREPARED BY: Cynthia E. Goudeau 01/06/2009
[Must be signed by Preparer] Date

TITLE: City Clerk

REPRESENTING: City of Clearwater

PHONE: (727.562.4091)

E-Mail Address: cyndie.goudeau@myclearwater.com

A bill to be entitled

An act relating to the Pinellas County Tourist Development Council, Pinellas County; amending chapter 2001-307, Laws of Florida; revising the membership of the council; providing the effective date for such changes in council membership; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1 of chapter 2001-307, Laws of Florida, is amended to read:

Section 1. Pinellas County Tourist Development Council; composition.--Notwithstanding the provisions of section 125.0104(4)(e), Florida Statutes, the Pinellas County Tourist Development Council as established by Pinellas County ordinance pursuant to section 125.0104, Florida Statutes, the "Local Option Tourist Development Act," shall be composed of 12 ~~11~~ members who shall be appointed by the Pinellas County Board of County Commissioners. The chair of the Pinellas County Board of County Commissioners or any other member as designated by the chair shall serve on the council. Four ~~Three~~ members of the council shall be elected municipal officials, one of whom shall be from the most populous municipality in Pinellas County, one of whom shall be from the municipality in which the greatest percentage of tourist development tax revenue is generated in Pinellas County, ~~and at least~~ one of whom shall be from among the cities of Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach,

Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island, and one of whom shall be from a city in Pinellas County that is not specifically named in this section. Seven members of the council shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council shall be electors of the county. The changes in the composition of the membership of the Pinellas County Tourist Development Council mandated by this act are effective October 1, 2006 ~~2001~~, and shall not cause the interruption of the current term of any person who is a member of the Pinellas County Tourist Development Council on October 1, 2006 ~~2001~~. Except as specifically provided herein, the provisions of section 125.0104(4)(e), Florida Statutes, shall apply to the Pinellas County Tourist Development Council.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 927 Mosquito Control District of Pinellas County
SPONSOR(S): Berfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 1916

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill abolishes the Mosquito Control District of Pinellas County, and provides for the transfer of assets and liabilities to Pinellas County.

The bill does not appear to have any impact on local and state budgets.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/Ensure lower taxes – This bill abolishes the Mosquito Control District of Pinellas County (District). The District is authorized to impose ad valorem taxes.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 67-1920(4), L.O.F., designates the Board of County Commissioners as the governing body of the Pinellas Mosquito Control District. The District is governed by ch. 388, F.S., and Chapter 5E-13, Florida Administrative Code.

The District provides services through an integrated pest management program utilizing techniques such as biological control, water management projects, source reduction practices and cultural control.

The District is funded primarily by local ad valorem tax assessments. In addition, the County receives State funding which requires annual and monthly reporting on Mosquito Control Activity.

Effect of Proposed Changes

This bill repeals chapter 18792, L.O.F., 1937, and chapter 67-1920, L.O.F., and thereby abolishes the Mosquito Control District of Pinellas County on January 1, 2007, and transfers the assets and liabilities of the District to Pinellas County.

C. SECTION DIRECTORY:

Section 1: Repeals chapter 18792, L.O.F., 1937, and chapter 67-1920, L.O.F.

Section 2: Abolishes the District; transfers the assets and liabilities of the District to Pinellas County, and provides that Pinellas County will assume the District's obligations.

Section 3: Provides an effective date of January 1, 2007.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 30, 2005

WHERE? *Pinellas News*, St. Petersburg, Pinellas County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not applicable.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

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Pinellas News
www.pinellas-news.com
TEL (727) 894-2411 FAX (727) 894-2522

NO: **123017**
ACCT: **15008**
Subject: **MOSQUITO CONTROL DISTRICT**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is a Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: MOSQUITO CONTROL DISTRICT OF PINELLAS COUNTY AND THE PINELLAS COUNTY WATER AND NAVIGATIONAL CONTROL AUTHORITY** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby give of intent to apply to the 2006 Legislature for passage of an :t relating to Pinellas County; repealing chapter 67-1920, L ws of Florida, and chapters 31182, 1955, Laws of Florida, and 2-664, 74-588, 78-602, 81-471, and 85-493, Laws of Florida; at lish- ing the Mosquito Control District of Pinellas County and he Pinellas County Water and Navigational Control Authori ; transferring their respective assets and liabilities to the cc nty; providing for a referendum; providing an effective date a d a conditional effective date.

15008 Dec 30, 2005 23017

Carter B. Chase

The foregoing instrument was acknowledged before me by Carter B. Chase, Personally Known to me this 30TH Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES: July 12, 2009
1-800-3-NOTARY Fl. Notary Discount Assoc. Co.

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 927

SPONSOR(S): Representative Bexfield & Senator Sebesta

RELATING TO: Mosquito Control District of Pinellas County & P.C. Water & Navigation Control District
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: SC 570-3592 dmcgaugh@pinellascounty.org

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: Dec. 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [December 30, 2005 **]**

Where? Pinellas News **County** Pinellas

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

12-19-05

Delegation Chair *(Original Signature)* **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 927

SPONSOR(S): REPRESENTATIVE BERFIELD AND SENATOR SEBESTA

RELATING TO: ABOLISHING THE MOSQUITO CONTROL DISTRICT AND WATER AND NAVAGATIONAL CONTROL AUTHORITY
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

		FY 06-07	FY 07-08
Expenditures:	Not applicable	Not applicable	Not applicable

II. ANTICIPATED SOURCE(S) OF FUNDING:

		FY 06-07	FY 07-08
Federal:	Not applicable	Not applicable	Not applicable
State:	Not applicable	Not applicable	Not applicable
Local:	Not applicable	Not applicable	Not applicable

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

		FY 06-07	FY 07-08
Revenues:	Not applicable	Not applicable	Not applicable

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: These are archaic special acts, where Pinellas County now undertakes these responsibilities. The Pinellas County Home Rule Charter requires countywide referendum approval.

Disadvantages: None

V. **ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:** Not applicable

VI. **DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:** Not applicable

PREPARED BY: _____ 12-2-05
[Must be signed by Preparer] Date

TITLE: Pinellas County Attorney

REPRESENTING: Pinellas County

PHONE: (727-464-3354)

E-Mail Address: _____

A bill to be entitled

An act relating to the mosquito control district of Pinellas County; repealing chapter 18792, Laws of Florida, 1937, and chapter 67-1920, Laws of Florida; abolishing the mosquito control district of Pinellas County; transferring all assets and liabilities of the district to the county; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Special laws relating to the mosquito control district of Pinellas County, including chapter 18792, Laws of Florida, 1937, and chapter 67-1920, Laws of Florida, are repealed and shall become ordinances of Pinellas County as provided in section 5.02(a) of the Pinellas County Charter.

Section 2. The mosquito control district of Pinellas County is abolished. All assets and liabilities of the district are transferred to Pinellas County, and Pinellas County shall assume all the district's obligations.

Section 3. This act shall take effect January 1, 2007.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 929 Pinellas County
SPONSOR(S): Berfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 1864

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T. L.S.	Hamby JJD
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill abolishes the Pinellas Sports Authority, and provides for the transfer of assets and liabilities to Pinellas County.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2006-07 or 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill abolishes the Pinellas Sports Authority (Authority).

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Authority was created in 1977 by ch. 77-635, L.O.F., for the purpose of determining the feasibility of developing a comprehensive complex of sports and recreation facilities for the use of the citizens of Pinellas County and for planning, construction, and operation of such facility. The Authority is authorized to fix and collect rates, rentals, fees and charges for the use of any and all of the sports and recreational facilities.

Effect of Proposed Changes

This bill repeals chapters 77-635, 80-503, 83-503, and 88-478, L.O.F., and thereby abolishes the Pinellas Sports Authority, and transfers the assets and liabilities of the Authority to Pinellas County.

C. SECTION DIRECTORY:

Section 1: Repeals chapters 77-635, 80-583, 83-503, and 88-478, L.O.F., abolishing the Authority; transfers the assets and liabilities of the Authority to Pinellas County, and provides that Pinellas County will assume the Authority's obligations.

Section 2: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 30, 2005

WHERE? *Pinellas News*, St. Petersburg, Pinellas County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not Applicable.

B. RULE-MAKING AUTHORITY: Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

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Pinellas News
www.pinellas-news.com
TEL (727) 894-2411 FAX (727) 894-2522

PINELLAS COUNTY LEGISLATIVE DELEGATION
Attn: MS. DONNA McGAUGHEY
311 S. OSCEOLA AVENUE
CLEARWATER, FL 33756-5122

NO.: **123019**
ACCT: **15008**
Subject: **THE PINELLAS SPORTS AUTHORITY**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is the Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: THE PINELLAS SPORTS AUTHORITY** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby gi en of intent to apply to the 2006 Legislature for passage of a act relating to Pinellas County; repealing chapter 77-635, aws of Florida, as amended; abolishing the Pinellas Sports Au hority and providing for disposition of its assets and assumpt on of its liabilities; providing an effective date.
15008 Dec 30, 2005 123019

Carter B. Chase

The foregoing instrument was acknowledged before me by Carter B. Chase, personally known to me
this **30TH** Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES: July 12, 2009
Fl. Notary Discount Assoc. Co.
1-800-3-NOTARY

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #:

SPONSOR(S): Representative Bexfield Senator Sebesta

RELATING TO: Pinellas County Sports Authority
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: SC 570-3592 dmcgaugh@pinellascounty.org

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: December 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [December 30, 2005 **]**

Where? Pinellas News **County** Pinellas

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

12-18-05

Delegation Chair (*Original Signature*) **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 929

SPONSOR(S): SENATOR SEBESTA AND REPRESENTATIVE BERFIELD

RELATING TO: ABOLISHING THE PINELLAS SPORTS AUTHORITY
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

		FY 06-07	FY 07-08
Expenditures:	Not applicable	Not applicable	Not applicable

II. ANTICIPATED SOURCE(S) OF FUNDING:

		FY 06-07	FY 07-08
Federal:	Not applicable	Not applicable	Not applicable
State:	Not applicable	Not applicable	Not applicable
Local:	Not applicable	Not applicable	Not applicable

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

		FY 06-07	FY 07-08
Revenues:	Not applicable	Not applicable	Not applicable

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: The Department of Community Affairs has declared the dissolution of this inactive special district is appropriate as it failed to file its reports and it has been unable to find any evidence that the Authority is operating or has a registered agent or a governing board.

Disadvantages: None

V. **ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:** Not applicable

VI. **DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) C F DATA]:** Not applicable

PREPARED BY: _____ 12-2-05
[Must be signed by Preparer] Date

TITLE: Pinellas County Attorney

REPRESENTING: Pinellas County

PHONE: (727-464-3354)

E-Mail Address: schuruti@co.pinellas.fl.us

A bill to be entitled

An act relating to Pinellas County; repealing chapter 77-635, Laws of Florida, as amended; abolishing the Pinellas Sports Authority and providing for disposition of its assets and assumption of its liabilities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 77-635, Laws of Florida, as amended by chapters 80-583, 83-503, and 88-478, Laws of Florida, is repealed and the Pinellas Sports Authority is abolished. All assets of the Pinellas Sports Authority are transferred to Pinellas County, and Pinellas County shall assume all obligations of the authority.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 935 Temporary Buildings
SPONSOR(S): Benson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2) Growth Management Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

Florida Statutes authorize the Florida Building Commission (Commission) to establish minimum standards for permitting, plan review and issuance of mandatory certificates of occupancy (administrative provisions), as well as technical standards for construction.[1] The Commission has adopted the Florida Building Code (Code), which generally applies to modular buildings and site built construction. The Code provides that buildings anticipated to be used for less then six months are entitled to different review and technical standards than permanent buildings (local building officials are authorized to extend that six month period). A different administrative standard applies to modular school buildings, which are statutorily authorized to be used for up to four years and still maintain their temporary status.[2] The National Flood Insurance Program provides some allowance for temporary buildings, which it defines using a 180 day time period, within flood-prone areas. Buildings in flood prone areas for longer periods of time require foundations sufficient to withstand pressure from flood waters.

HB 935 establishes four years as the threshold time period for determining whether a modular building, manufactured building, or factory-built building, regardless of occupancy type, is temporary or permanent. The bill provides exemptions for temporary buildings from the soil and foundation requirements of the Code, while requiring the foundation design to meet or exceed the wind load capacity of the building.

[1] Section 553.73(4)(a), F.S.
[2] Section 553.415, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - This bill may restrict the ability of local governments to enforce safety requirements as applied to temporary buildings and reduces the number of repeated permits by increasing the time between inspections.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Statutes authorize the Florida Building Commission (Commission) to establish minimum standards for permitting, plan review and issuance of mandatory certificates of occupancy (administrative provisions), as well as technical standards for construction.[3] The Commission has adopted the Florida Building Code (Code), which generally applies to modular buildings and site built construction. The Code provides that buildings anticipated to be used for less then six months are entitled to different review and technical standards than permanent buildings (local building officials are authorized to extend that six month period). A different administrative standard applies to modular school buildings, which are statutorily authorized to be used for up to four years and still maintain their temporary status.[4] The National Flood Insurance Program provides some allowance for temporary buildings, which it defines using a 180 day time period, within flood-prone areas. Buildings in flood prone areas for longer periods of time require foundations sufficient to withstand pressure from flood waters.

Technically, the Code provides that "[t]emporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare."[5] [This section was adopted verbatim by the Commission from the International Building Code.]

The following "temporary" buildings are exempt from application of the Code:

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.[6]

Effect of Proposed Changes

This bill establishes four years as the threshold time period for determining whether a modular building[7], manufactured building[8], or factory-built building[9], regardless of occupancy type, is temporary or permanent. The bill provides exemptions for such buildings from the soil and foundation

[3] Section 553.73(4)(a), F.S.
[4] Section 553.415 , F.S.
[5] Section 107.2, Florida Building Code, Building Volume (2004).
[6] Section 553.73(8), F.S.
[7] Section 558.002(7), F.S.
[8] Section 553.36(12), F.S.
[9] Section 212.02(7), F.S.

requirements of the Code, while requiring the foundation design to meet or exceed the wind load capacity of the building.

C. SECTION DIRECTORY:

Section 1. Adds subsection (12) to s. 553.37, F.S., providing four years as the threshold time period for determining whether a modular building, manufactured building, or factory-built building is temporary or permanent; providing an exemption for temporary buildings from the foundation and soil requirements of the Florida Building Code in favor of design for the wind strength equivalent to that for which the building was designed.

Section 2. Provides that the act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be a minimal fiscal impact on local governments relating to permitting by increasing the time between inspections.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Decreased costs of installation and lack of repeated permitting will result in savings to the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Community Affairs (Department) has proposed the following amendments:

- Shortened threshold, 4 years is a long period of time to call a building temporary in general application.
- Limit the application of provision to areas outside of those governed by the flood-resistant construction requirements of the National Flood Insurance Program.
- Provision for design for anticipated loads caused by factors in addition to wind.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **935**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Local Government

Representative Benson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (12) is added to section 553.37, Florida Statutes, to read:

553.37 Rules; inspections; and insignia.--

(12) Modular buildings, manufactured buildings, and factory-built buildings, regardless of the occupancy type, which meet the requirements of this part and do not exceed a maximum of twenty-four (24) months occupancy from date of certificate of occupancy, shall be considered temporary. The certificate of occupancy for a temporary building may be extended for an additional twenty-four (24) months. Such temporary buildings shall use a temporary foundation design that meets or exceeds the wind load capacity of the building and the soil bearing capacity of the building location and shall be exempt from soil and foundation requirements of the Florida Building Code. If the occupancy length is greater than forty-eight (48) months, or the building is located in a flood zone area, then these buildings shall be considered permanent structures and shall comply with

all requirements of the Florida Building Code, unless otherwise exempted.

Section 2. This act shall take effect upon becoming a law.

========== T I T L E A M E N D M E N T ==========

Remove the entire title and insert:

An act relating to temporary buildings; amending s. 553.37, F.S.; considering certain buildings as temporary; providing foundation requirements for such buildings; exempting such buildings from soil and foundation requirements of the Florida Building Code; providing an exception; providing an effective date.

A bill to be entitled

An act relating to temporary buildings; amending s. 553.37, F.S.; considering certain buildings as temporary; providing foundation requirements for such buildings; exempting such buildings from soil and foundation requirements of the Florida Building Code; providing an exception; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (12) is added to section 553.37, Florida Statutes, to read:

553.37 Rules; inspections; and insignia.--

(12) Any modular building, manufactured building, or factory-built building, regardless of the occupancy type, that meets the requirements of this part and does not exceed a maximum of 48 months' occupancy from the date of the certificate of occupancy is considered temporary. Such temporary building shall be installed with a temporary foundation design that meets or exceeds the wind load capacity of the building and shall be exempt from the soil and foundation requirements of the Florida Building Code. If the occupancy length of such building is greater than 48 months, the building is considered a permanent structure and shall comply with all requirements of the Florida Building Code, unless otherwise exempted.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 939 Local Government
SPONSOR(S): Rivera
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson JPN	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends a statute authorizing counties to contract to provide services to municipalities and special districts to specify that this provision may not be construed to require that any newly formed municipality or one formed since January 1, 2000, be required to pay any charge, assessment, tax, fee or other consideration as a condition for allowing the citizens of an area to incorporate. The bill also provides that this new language applies to all counties.

Notwithstanding this language, this bill only applies to Miami-Dade County as it is the single county in the state which has a home rule charter providing for an exclusive method of municipal incorporation as specifically authorized by the Constitution. All other incorporations are creations of the Florida Legislature.

Because this proposed legislation applies solely to Miami-Dade County, and will not apply to any other county in the future without a change in current law, a court could determine it to be a local bill.

The effective date of the act is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

This bill appears to reduce Miami-Dade County's ability to provide a mechanism for establishing new municipal corporations.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 165, Florida Statutes

Chapter 165, F.S., provides statutory standards for forming Florida municipalities. The provisions of this act are the exclusive procedures pursuant to general law for creating or dissolving municipalities in this state, except in those counties operating under a home rule charter which provides for an exclusive method as specifically authorized by s. 6(e), Art. VIII of the State Constitution.

Section 6(e) of Art. VII of the State Constitution

Section 6(e) of Art. VII of the State Constitution provides that ss. 9, 10, 11 and 24 of Art. VIII of the Constitution of 1885, as amended, remain in full force and effect as to each county affected, until a county expressly adopts a charter or home rule plan pursuant to that article. Sections 9, 10, 11 and 24 refer to Duval, Monroe, Dade and Hillsborough counties, respectively. Within these provisions, only Section 11 authorizes Dade County to adopt a home rule charter which provides a method for establishing new municipal corporations. See, s. 11 (e) of Art. VIII of the Constitution of 1885, as amended, as referenced in Section 6(e) of Art. VII.

Section 6(e) of Art. VII of the State Constitution also provides that all provisions and amendments of the Metropolitan Dade County Home Rule Charter adopted by the electors of Dade County pursuant to s. 11 of Art. VIII of the Constitution of 1885, as amended, shall be valid, provided that said provisions and amendments are authorized under that article.

Miami-Dade County

Adopted in 1957, the Miami-Dade Home Rule Charter provides for the creation of new municipalities at section 5.05. This charter contemplates "pre-agreed conditions" between the County and a prospective municipality:

> The Board of County Commissioners and only the Board may authorize the creation of new municipalities in the unincorporated areas of the county after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of a majority of the electors voting and residing within the proposed boundaries. The Board of County Commissioners shall appoint a charter commission, consisting of five electors residing within the proposed boundaries, who shall propose a charter to be submitted to the electors in the manner provided in Section 5.03. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by this Charter and the Constitution and general laws of the State of Florida. Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the

municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

An Incorporation Process which was passed by a county-wide vote is provided for in Article II of the Miami-Dade Code of Ordinances.

Section 125.0101, F.S.

Section 125.0101, F.S., specifically indicates that a county may contract to provide services to municipalities and special districts to be funded as agreed upon between the county and a municipality or special district. This section also provides that it is not to be construed to authorize a county to impose any service charge or special assessment or to levy any tax within a municipality or special district, or to authorize the creation of a municipal service taxing unit within such area.

This section does not apply to any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII, of the State Constitution.

Effect of Proposed Changes

HB 939 adds language to s. 125.010, F.S., that provides that the section is not to be construed to require that any newly formed municipality or one formed since January 1, 2000, be required to pay any charge, assessment, tax, fee or other consideration as a condition for allowing the citizens of an area within a county to incorporate and self-govern.

The bill also provides that this additional language applies to all counties, unlike the rest of the section, which contains an exemption for any county operating under a home rule charter adopted pursuant to ss. 10, 11 and 24, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII, of the State Constitution. Notwithstanding this language, this bill only would apply to Miami-Dade County as it is the single county in the State of Florida which has the ability to provide a mechanism for municipal incorporation.[1] All other incorporations are creations of the Florida Legislature pursuant to ch. 165, F.S.

The effective date of the act is July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 125.0101, F.S.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

[1] See, the "Present Situation" analysis of Chapter 165, F.S., and Section 6(e) of Art. VII of the State Constitution.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown.

2. Expenditures:

Unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

While the Legislature may enact general acts applying to Miami-Dade County and one or more other counties, or to cities within and without Miami-Dade County, the Legislature does not have power to enact a local bill that relates only to Miami-Dade County. Because this proposed legislation applies solely to this county, and will not apply to any other county in the State of Florida in the future without a change in current law, a court could determine it to be a local bill.[2]

In interpreting the language of Art. VIII of the State Constitution of 1885, the courts have held that in matters which affect only Miami-Dade County, and which are not the subject of specific constitutional provisions or valid general acts pertaining to Miami-Dade County and at least one other county, the electors of Miami-Dade County may "govern themselves autonomously and differently than the people of other counties of the state." S & J Transportation, Inc. v. Gordon, 176 So.2d 69 (Fla. 1965). The Florida Supreme Court has opined that a reasonable construction of the constitutional scheme formulated for the government of Miami-Dade County alone suggests that the Legislature "no longer has authority to enact laws which relate only" to the affairs of Miami-Dade County. Dickinson v. Board of Public Instruction of Dade County, 217 So.2d 553, 555 (Fla. 1968).[3]

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[2] The State Constitution defines a "special law" as a special or local law (the result of a local bill). Section 12(g), Art. X. of the Florida Constitution. As explained in case law, a local law is one relating to, or designed to operate only in, a specifically indicated part of the State, or one that purports to operate within classified territory when classification is not permissible or the classification is illegal. Department of Business Regulation v. Classic Mile, Inc., 541 So.2d 1155 (Fla.1989) quoting from State ex rel. Landis v. Harris, 120 Fla. 555, 163 So. 237 (Fla. 1934).

[3] Section 11 of Art. VIII of the Constitution of 1885, as referenced by s. 6, Art. VII of the State Constitution provides that:
"Nothing in this section shall limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties in the state of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida, and the home rule charter provided for herein shall not conflict with any provision of this Constitution nor of any applicable general laws now applying to Dade County and any other one or more counties of the State of Florida except as expressly authorized in this section nor shall any ordinance enacted in pursuance to said home rule charter conflict with this Constitution or any such applicable general law except as expressly authorized herein, nor shall the charter of any municipality in Dade County conflict with this Constitution or any such applicable general law except as expressly authorized herein, provided however that said charter and said ordinances enacted in pursuance thereof may conflict with, modify or nullify any existing local, special or general law applicable only to Dade County."

It also is noted that a local bill, within the contemplation of s. 10, Art. III of the State Constitution, is required to be noticed as provided by general law[4] unless the bill is conditioned on a referendum of the electors of the area effected.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The Sponsor may want to amend the bill at lines 26 and 27 to read: or to require that any municipality formed since January 1, 2000, be....

Other Comments

The Miami-Dade County Attorney's Office has indicated that the County requires "mitigation" to lessen the financial impact of incorporations on its Unincorporated Municipal Service Area (UMSA) budget. Despite recent incorporations, over 1.1 million people still live in the unincorporated area of the county out of the total 2.4 million residents.

There were no new incorporations in Miami-Dade County for a number of decades. Then, during the 1990s, Key Biscayne incorporated followed by Aventura, Sunny Isles Beach and Pinecrest. It became apparent that wealthy areas of the UMSA were pursuing incorporation and removing these areas from the UMSA tax rolls. Looking to the future (and to the north at Broward County), the fear was that incorporations would continue among wealthy areas until the UMSA would be left only or predominantly with "donee" communities and no "donor" areas left in the UMSA to counterbalance the expense. (Court cases have required that the UMSA and the countywide budget be strictly segregated as if the UMSA was another city in Miami-Dade with the Board acting as the city commission.)

To address this concern, the Board adopted a miitigation policy that basically provided that it would calculate the impact of a particular proposed incorporation configuration on the UMSA, and then require a proposed city to pay approximately half of that impact if they chose to incorporate. A proposed city did not have to make a mitigation payment if it was configured in such a way that it "broke even" relative to the balance of the UMSA, i.e., was revenue neutral, or was configured as a donee area. Only if a proposed city was configured so as to "cherry pick" an aggregate donor area out of the UMSA would mitigation payments be required. This mitigation policy was endorsed by the areas anticipating incorporation and the cities of Miami Lakes, Palmetto Bay, Doral, Miami Gardens and Cutler Bay all incorporated under this policy.

Miami Lakes, Palmetto Bay and Doral were donor areas and as such agreed to incorporate and configure their cities with the understanding that mitigation payments would be required as a result of the incorporation. Miami Gardens was configured as a donee area so it pays no mitigation; Cutler Bay also was configured as to be revenue neutral to the UMSA and therefore makes no mitigation payments.

The Board currently is in the process of revising their policy so that a proposed city may only incorporate if it is revenue neutral to the UMSA. By doing so, they hope to resolve any problems in the future. As a result of the filing of this legislation, the board has imposed a complete moratorium on incorporations.

[4] See, s. 11.02, F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to local government; amending s. 125.0101, F.S.; prohibiting counties from imposing certain fees or taxes on certain municipalities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) and (5) of section 125.0101, Florida Statutes, are amended to read:

125.0101 County may contract to provide services to municipalities and special districts.--

(2) In addition to the powers enumerated in this chapter, the legislative and governing body of a county shall have the power to contract with a municipality or special district within the county for fire protection, law enforcement, library services and facilities, beach erosion control, recreation services and facilities, water, streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation, and other essential facilities and municipal services. Such services shall be funded as agreed upon between the county and the municipality or special district. This section shall not be construed to authorize the county to impose any service charge or special assessment; ~~or~~ to levy any tax within the municipality or special district; or to require that any newly formed municipality or one formed since January 1, 2000, be required to pay any charge, assessment, tax, fee, or other

consideration as a condition for allowing the citizens of an area within the county to incorporate and self-govern;~~,~~ nor shall this section be construed to authorize the creation of a municipal service taxing unit within such area.

(5) This section, except for the provision in subsection (2) prohibiting any charge, assessment, tax, fee, or other consideration as a condition for allowing the citizens of an area within the county to incorporate and self-govern, shall not apply to any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII, of the Constitution of 1968.

Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1021 Lealman Special Fire Control District, Pinellas County
SPONSOR(S): Farkas
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson LPN	Hamby
2) Fiscal Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill provides that the Lealman Fire Control District will remain the sole taxing, enforcing and service providing authority with respect to fire services over any land within its boundaries that is annexed by other fire control districts and municipalities.

According to the Economic Impact Statement, this bill will not have a fiscal impact.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes

This bill provides that the Lealman Fire Control District will remain the taxing authority with respect to fire services over any land within its boundaries that is annexed by other fire control districts and municipalities. Residents living in areas that are annexed by taxing authorities with lower fire service taxes would be required to continue paying the district at its higher rate.[1] However, the bill may allow remaining district residents to continue receiving fire service without an increase in taxes.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Chapter 191, F.S., the Independent Special Fire Control District Act

Chapter 191, F.S., is known as the "Independent Special Fire Control District Act." Section 191.002, F.S., sets forth the act's purpose, which is to establish standards and procedures concerning the operations and governance of independent special fire control districts, and to provide greater uniformity in financing authority, operations and procedures for electing members of district governing boards. An "independent special fire control district" is defined as an independent special district (as defined in s. 189.403) created by special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district. Currently, there are 55 such districts in Florida.[2]

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[1] Pinellas County Fire District Tax Information for Fiscal Year 2002

	Column 1	Column 2	Column 3	
	Millage	Taxable Value of 1 Mill	Budgeted Ad Valorem	
Belleair Bluffs	1.475	$203,859	$300,692	
Clearwater	3.001	$769,775	$2,310,095	
Dunedin	2.350	$248,754	$584,572	
Gandy	2.070	$70,803	$146,562	
Largo	2.615	$528,412	$1,381,797	
Pinellas Park	2.474	$271,577	$671,881	
Safety Harbor	3.167	$54,918	$173,925	
Tarpon Springs	1.236	$133,482	$164,984	
Seminole	2.219	$1,884,296	$4,181,253	
East Lake	1.505	$1,874,025	$2,820,408	
Lealman	**5.323**	$677,324	$3,605,396	
High Point	2.929	$846,745	$2,480,116	
Tierra Verde	1.190	$501,212	$596,442	
South Pasadena	2.186	$75,449	$164,932	
Totals		$8,140,632	$19,583,056	2.406

2.406 = Average Fire District Millage

[2] Department of Community Affairs: http://floridaspecialdistricts.org.

District Powers

Unless otherwise exempted by special or general law, the act requires each district to comply with its provisions. The act further provides that it is the intent of the Legislature that the act supersedes all special acts or general laws of local application provisions that contain the charter of a district. However, those provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are exempted. Chapter 191, F.S., also does not repeal any authorization providing for the levying of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees or other charges.

An independent special fire control district's general governmental powers include, but are not limited to, the following:

- to sue and be sued, to adopt a seal, and to make and execute contracts;
- to provide for a pension or retirement plan for its employees, and to provide for an extra compensation program;
- to contract for the services of consultants;
- to borrow money and accept gifts, and to apply for grants and loans;
- to adopt resolutions, procedures, ordinances and resolutions that are necessary to conduct district business;
- to maintain an office;
- to acquire real and personal property;
- to hold, control and acquire by donation or purchase any public easement, dedication to public use, platted reservation for public purposes, or reservation for those purposes authorized by the act;
- to lease any facility or property as lessor or lessee;
- to borrow money and issue bonds, revenue anticipation notes, or certificates payable from and secured by a pledge of funds, revenues, taxes and assessments, warrants, notes or other evidence of indebtedness, and to mortgage real and personal property;
- to charge user and impact fees and to enforce their receipt and collection;
- to exercise the power of eminent domain;
- to cooperate or contract with other persons or entities, including other governmental agencies;
- to assess and impose ad valorem taxes and non-ad valorem assessments on real property in the district;
- to impose and foreclose non-ad valorem assessment liens or to impose, collect and enforce non-ad valorem assessments;
- to select a depository for its funds;
- to provide adequate insurance;
- and to organize, participate in, and contribute to monetarily to organizations or associations relating to the delivery of or improvement of fire control, prevention, emergency rescue services or district administration.

Independent special fire control districts also are granted "special powers" relating to the provision of fire suppression and prevention, which involves the establishment and maintenance of fire stations and substations and the acquisition and maintenance of firefighting and fire-protection equipment deemed necessary to prevent or fight fires. Their boards are authorized to carry out the following such powers:

- to establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical and other emergency equipment, pursuant to ch. 401, F.S., and any certificate of public convenience and necessity or its equivalent issued for those purposes;
- to employ, train and equip firefighting and other personnel, including volunteer firefighters, as necessary to accomplish the duties of the district;

- to conduct public education to promote awareness of methods to prevent fires and reduce loss of life and property;
- to adopt and enforce fire safety standards and codes and enforce the rules of the State Fire Marshal;
- to conduct arson investigations and cause-and-origin investigations;
- to adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency, as provided in ch. 252, F. S., and
- to contract with general-purpose local governments for emergency management planning and services.

District Funding Mechanisms

Section 191.009, F.S., authorizes special fire control districts to levy ad valorem taxes, special assessments, user charges and impact fees.

Ad Valorem Taxes

An elected board may levy and assess ad valorem taxes on all taxable property in the district to construct, operate and maintain district facilities and services, to pay the principal of, and interest on, general obligation bonds of the district, and to provide for any sinking or other funds established in connection with such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, may not exceed 3.75 mills unless a higher amount has been previously authorized by law, subject to a referendum as required by the State Constitution and the act. The levy of ad valorem taxes must be approved by referendum called by the board when the proposed levy of ad valorem taxes exceeds the amount authorized by prior special act, general law of local application, or county ordinance approved by referendum. The tax is assessed, levied and collected in the same manner as county taxes.

Non-Ad Valorem Assessments

A district may levy non-ad valorem assessments to construct, operate and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board pursuant to statutory procedures. Non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years. Non-ad valorem assessment rate increases within the personal income threshold are deemed to be within the maximum rate authorized by law at the time of initial imposition. Proposed non-ad valorem assessment increases which exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last five years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum of the electors of the district. The referendum on the first-time levy of an assessment must include a notice of the future non-ad valorem assessment rate increases permitted by the act without a referendum. Non-ad valorem assessments must be imposed, collected and enforced pursuant to general law.

User Charges

The board may provide a reasonable schedule of user charges for the following services:

- special emergency services, including firefighting occurring in or to structures outside the district, motor vehicles, marine vessels, aircraft or rail cars or as a result of the operation of such motor vehicles or marine vessels, to which the district is called to render such emergency service, and may charge a fee for the services rendered in accordance with the schedule;
- fighting fires occurring in or at refuse dumps or as a result of an illegal burn, which fire, dump or burn is not authorized by general or special law, rule, regulation, order or ordinance and which the district is called upon to fight or extinguish;

- responding to or assisting or mitigating emergencies that either threaten or could threaten the health and safety of persons, property or the environment, to which the district has been called, including a charge for responding to false alarms; and
- inspecting structures, plans and equipment to determine compliance with firesafety codes and standards.

The district has a lien upon any real property, motor vehicle, marine vessel, aircraft or rail car for any user charge assessed.

Impact Fees

If the general purpose local government has not adopted an impact fee for fire services which is distributed to the district for construction within its jurisdictional boundaries, the board may establish a schedule of impact fees to pay for the cost of new facilities and equipment, the need for which is in whole or in part the result of new construction. The impact fees collected by the district must be kept separate from other revenues of the district and must be used exclusively to acquire, purchase or construct new facilities or portions thereof needed to provide fire protection and emergency services to new construction. The term "new facilities" is defined as land, buildings and capital equipment, including, but not limited to, fire and emergency vehicles, radiotelemetry equipment, and other firefighting or rescue equipment. The board must maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment. The board may enter into agreements with general purpose local governments to share in the revenues from fire protection impact fees imposed by the governments.

Independent special fire control districts also are authorized to issue various types of bonds, including general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes or other evidences of indebtedness.[3]

District Boundaries/ Municipal Annexation within an Independent Special District

Pursuant to s. 191.014, F.S., the boundaries of an independent special fire control district may be modified, extended or enlarged upon approval or ratification by the Legislature. The merger of a district with all or part of another independent special district or dependent fire control district is effective only when it is ratified by the Legislature. A district's merger with another governmental entity is not justification for increasing the ad valorem taxes on property within the original limits of the district beyond the maximum established by the district's enabling legislation, unless such increase is approved by the electors of the district by referendum.

Chapter 171, F.S., the "Municipal Annexation or Contraction Act," contemplates a municipality's annexation of property within the jurisdictional boundaries of an independent special district.[4] In such an instance, the municipality may elect to assume the special district's service responsibilities. Upon such an election, the municipality and the district may enter into an interlocal agreement which provides for the orderly transfer of service responsibilities. This agreement also must address the prevention of loss of any district revenues which may be detrimental to the continued operations of the district, and the status and employee rights of any adversely affected employees. If the municipality and the district are unable to enter into an interlocal agreement, the district remains the service provider in the annexed area for a period of four years. During the four-year period, the municipality is required to pay the district an amount equal to the ad valorem taxes or assessments that would have been collected had the property remained in the district. The district and the municipality can mutually agree upon an extension for the provision of services at the end of four years.

Three possible scenarios for district boundaries are contemplated in the case of a municipal annexation:

[3] See, s. 191.012, F.S.
[4] See, s. 171.093, F.S.

1. If the municipality elects not to assume the district's responsibilities, the district remains the service provider for the annexed area and the geographical boundaries of the district continue to include the annexed area.
2. If the municipality elects to assume the district's responsibilities pursuant to an interlocal agreement, the districts boundaries contract to exclude the annexed area at the time and in the manner as provided in the agreement.
3. If the municipality elects to assume the district's responsibilities and the municipality and the district are unable to enter into an interlocal agreement, and the district continues to remain the service provider in the annexed area, the geographical boundaries of the district contract to exclude the annexed area on the effective date of the beginning of the four-year period. The district may not levy ad valorem taxes on the annexed property in the calendar year in which its boundaries contract, but may assess user charges and impact fees within the area while it remains the service provider.

The Lealman Special Fire Control District

The Lealman Special Fire Control District is an independent special district located in Pinellas County which employs over 50 firefighters and staff. The district's charter states that any land within the district's boundaries that is annexed by a municipality will be excluded from the district, effective the following January 1st. In 2002, the Legislature passed a local bill[5] which amended the district's charter to provide that if a municipality or another fire control district annexed land within the district's boundaries, the district would continue as the sole taxing, enforcing and service providing authority for fire control purposes to this property. Pursuant to the bill, a municipality could choose to collect the applicable tax or assessment for fire services and remit it to the district at the district's standard rate.[6] These provisions sunset effective January 1, 2008.

EFFECT OF PROPOSED CHANGES

HB 819 repeals the sunset language contained in ch. 2002-352, L.O.F., thereby allowing the Lealman Special Fire Control District to remain the sole taxing, enforcing and service providing authority for fire control purposes for property within its boundaries which is annexed by a municipality or another fire control district.[7] According to district representatives, the district relies heavily upon commercial property to support its tax base, and has requested this bill due to the annexations of commercial properties within its boundaries by neighboring cities in recent years. Since 2000, the district has lost over $85 million in taxable properties as a result of municipal annexations. This equates to over $425,000 in lost revenue and represents approximately 13 percent of the district's annual budget. Since the enactment of the 2002 bill, no annexations of lands within the district have occurred. If the current sunset provision is not repealed, the district fears that municipalities will resume annexing property, further eroding its tax base.

C. SECTION DIRECTORY:

Section 1: Provides for repeal of sections of previous special act.
Section 2: Provides for an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? January 9, 2006

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[5] See ch. 2002-352, L.O.F.
[6] The District's current millage rate is 5.323.
[7] While the ch. 2002-352, L.O.F., contemplates the annexation of district land by another fire control district, such a district does not have the power to "annex" property, although its boundaries may be extended upon Legislative approval and ratification.

WHERE? The *St. Petersburg Times*, a daily newspaper of general circulation, published in Pinellas County.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

The Economic Impact Statement provides that this bill will not increase ad valorem levies or non-ad valorem assessments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Section 9(b), art. VII, of the State Constitution, provides for special districts to levy a millage authorized by law approved by the vote of the electors who are owners of freeholds within the district. This bill would authorize a special district to levy ad valorem taxes outside of the district, if such property were annexed by a municipality or became part of another fire control district pursuant to an act of the Legislature. If the authorized ad valorem millage were increased, subject to referendum approval of the district's electors, the owners of property within an annexed area could be subject to the new tax without a vote.

This bill also could also result in the owners of property within the annexed area being subjected to double taxation. If a municipality incorporated fire service charges into its ad valorem taxes, and an annexed property was subject to the district's ad valorem taxes, an owner could be taxed twice for fire control services.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. In this case, the bill appears to provide an exemption from s. 171.093, F.S., in that it eliminates a municipalities' ability to elect to assume an independent special district's responsibilities when the municipality annexes land within the district's boundaries. The bill also allows the district to continue to provide its services indefinitely in lieu of an interlocal agreement, rather than for a four-year period as provided by s. 171.093(4)(a), and to levy taxes within the municipality, rather than receiving payment from the municipality equal to the amount of the ad valorem taxes that would have been collected had the property remained in the district. Further, the bill may provide an exemption to s. 191.0091, F.S., which authorizes the board of an independent special fire control district to levy and assess ad valorem taxes on all taxable property within its district in that it would allow the district to serve as the taxing authority outside the district.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1001808223

ST. PETERSBURG TIMES

Published Daily
St. Petersburg, Pinellas County, Florida

STATE OF FLORIDA } S.S.
COUNTY OF PINELLAS }

Before the undersigned authority personally appeared B. Stamper
who on oath says that he is Legal Clerk
of the *St. Petersburg Times All Pinellas Classified*
a daily newspaper published at St. Petersburg, in Pinellas County, Florida: that the attached copy of advertisement, being a Legal Notice
in the matter RE: Notice of Intent to Seek Legislation
Lealman Special Fire District
was published in said newspaper in the issues of January 7, 2006

Affiant further says the said *St. Petersburg Times All Pinellas Classified* is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper has heretofore been continuously published in said Pinellas County, Florida, each day and has been entered as second class mail matter at the post office in St. Petersburg, in said Pinellas County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

B Stamper
Signature of Affiant

Sworn to and subscribed before me this 9th day of January A.D. 2006

Kathleen J Klase
My Commission DD319070
Expires June 20, 2008

Kathleen J. Klase
Notary Public

NOTICE OF INTENT TO SEEK LEGISLATION
Lealman Special Fire Control District hereby gives notice pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, of its intent to seek legislation before the 2006 Legislature. This legislation will delete the future expiration date of the District's taxing authority as the fire-service provider for annexed lands within its boundaries, and provides an effective date.
(1001808223) 1/7/06

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1021

SPONSOR(S): Representative FARKAS

RELATING TO: Lealman Special Fire Control Dist., Pinellas County
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: 582 570-3592 dmcgaugh@pinellascounty.org

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: December 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members? YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [January 2, 2006 **]**

Where? St. Petersburg Times **County** Pinellas

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

12-19-05

Delegation Chair (*Original Signature*) **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 1021

SPONSOR(S): Frank Farkas

RELATING TO: Lealman Special Fire Control District; Pinellas County

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 06-07	FY 07-08
Expenditures:	$0	$0

All costs associated with implementing this special act can be met within the District's current budget.

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	N/A	N/A
State:	N/A	N/A
Local:	N/A	N/A

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	$0	$0

This legislation will not increase ad valorem levies or non-ad valorem assessments.

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: The bill will allow the District to continue as fire service provider and taxing authority for fire service only, to lands currently within its boundaries. The bill will help secure the jobs and pensions of over 50 current firefighters. It will also insure that over 42,000 District residents continue to receive fire protection without increasing ad valorem levies or reducing the level of fire protection services.

Disadvantages: NONE

V. **ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:** None

VI. **DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:**

Review of general and special laws related to Lealman Special Fire Control District, information from district staff and attorney, and prior experience representing special districts.

PREPARED BY: _____ _____
[Must be signed by Preparer] Date
M. Christopher Lyon

TITLE: District Special Counsel

REPRESENTING: Lealman Special Fire Control District

PHONE: (850/222-5702)

E-Mail Address: clyon@llw-law.com

A bill to be entitled

An act relating to the Lealman Special Fire Control District, Pinellas County; repealing sections 3 and 4 of chapter 2002-352, Laws of Florida, to delete future repeal of provisions granting the district taxing, enforcement, and service-providing authority over district lands annexed by a municipality or other fire control district; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 3 and 4 of chapter 2002-352, Laws of Florida, are repealed.

Section 2. This act shall take effect upon becoming a law.